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Security Council Committee established pursuant to resolution 1540 (2004)

Note verbale dated 29 October 2004 from the Permanent Mission of Luxembourg to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Luxembourg to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1540 (2004) and has the honour to transmit herewith the national report of Luxembourg as provided for in resolution 1540 (2004) (see annex). This report should be read in conjunction with the report transmitted separately by the Netherlands on behalf of the European Union. In accordance with paragraph 6 (b) of the guidelines for the preparation of national reports pursuant to resolution 1540 (2004), Luxembourg requests the Committee to keep the information provided in its national report confidential.

04-67509 (E) 100505 130505

Annex to the note verbale dated 29 October 2004 from the Permanent Mission of Luxembourg to the United Nations addressed to the Chairman of the Committee

National report of the Grand Duchy of Luxembourg on the implementation of Security Council resolution 1540 (2004)

As a member State of the European Union, Luxembourg wishes to refer to the European Union common report, which will be transmitted separately to the Security Council Committee established pursuant to resolution 1540. The report covers areas of European Union and European Community competencies and activities in relation to Security Council resolution 1540 (2004) and should be read in conjunction with Luxembourg's national report.

Luxembourg's policy in relation to the provisions of resolution 1540

1. Luxembourg welcomes the adoption by the Security Council of resolution 1540 (2004) and undertakes to comply with and implement all the provisions of that resolution.

2. The risk of seeing terrorists gaining access to weapons of mass destruction and their means of delivery or to chemical, biological, nuclear or radioactive materials poses a growing threat to international peace and security. The particular emphasis of resolution 1540 on non-State actors fills a lacuna in international law.

3. Luxembourg has also signed and ratified the Treaty on the Non-Proliferation of Nuclear Weapons, the Chemical Weapons Convention and the Biological and Toxin Weapons Convention. The provisions of those treaties have been incorporated into Luxembourg legislation.

4. Luxembourg has also signed and ratified the Additional Protocol to the International Atomic Energy Agency (IAEA) Safeguards Agreement. That Agreement was ratified by the Act of 1 August 2001 and came into force on 30 April 2004 simultaneously in Luxembourg and all European Union member States.

5. Furthermore, Luxembourg is an active member of export control regimes such as the Nuclear Suppliers Group, the Zangger Committee, the Missile Technology Control Regime, the Australia Group and the Wassenaar Arrangement. The control lists of such regimes have been incorporated into Council Regulation (EC) 1334/2000 relating to dual-use goods and technology, which is applicable in Luxembourg.

6. Luxembourg has subscribed to the Hague Code of Conduct against the Proliferation of Ballistic Missiles, an important policy instrument in the fight against the proliferation of ballistic missiles as means of delivery of weapons of mass destruction.

7. The creation of the Proliferation Security Initiative (PSI) addressed an urgent need to combat the illicit transport of weapons of mass destruction and related materials and equipment. Luxembourg endorses the Statement of Interdiction Principles adopted on 4 September 2003 in Paris and intends to actively work towards its success.

8. The European Council adopted at Thessaloniki in June 2003 a Declaration on non-proliferation of Weapons of Mass Destruction. In December 2003, that commitment was given concrete effect through the adoption of a European Union Strategy against the Proliferation of Weapons of Mass Destruction. The Strategy recognizes that non-proliferation, disarmament and arms export control policies make a substantial contribution to the fight against terrorism by reducing the risk of non-State actors gaining access to weapons of mass destruction and their means of delivery as well as to related materials and equipment. As a member of the European Union, Luxembourg fully supports this instrument and is actively working towards its implementation.

National bodies responsible for the implementation of resolution 1540 (2004)

Ministry of Foreign Affairs

The Policy Department of the Ministry of Foreign Affairs is the focal point for relations with the Security Council Committee established pursuant to resolution 1540. At the national level, the Ministry of Foreign Affairs ensures coordination among the relevant ministries responsible for the implementation of resolution 1540.

Under the direction of the Ministry, a national authority is responsible for the obligations under the Chemical Weapons Convention and for liaising with the Organization for the Prohibition of Chemical Weapons (OPCW).

Ministry of State

The intelligence service of the Ministry of State is responsible for proactively gathering, analysing and processing intelligence relating to any activity that threatens or is likely to threaten the security of the Grand Duchy of Luxembourg, States to which it is bound by a joint defence agreement, or of international organizations that are based or operate in Luxembourg or Luxembourg's international relations.

Licensing Office, Ministry of Foreign Trade

The Licensing Office is responsible for the issuance of licenses for the export (and transit) of goods that are either on the list of military weapons and equipment or the list of dual-use goods and related technology.

Every application is processed taking into account the relevant goods and final destination/country of destination. An end-user certificate is required for every export application. Applications are processed on the basis of criteria established by European Union working groups.

Applications for export licences may be denied if: a particular transaction is deemed harmful to the interests of Luxembourg or its allies; the goods to be exported are to be or can be used for the development, manufacture, handling, operation, maintenance, stockpiling, detection, identification or dissemination of chemical, biological or nuclear weapons or the development, manufacture, maintenance or stockpiling of missiles for the delivery of such weapons; a European Union member State or another State party to any non-proliferation and export control regime has already denied a similar transaction and notified its other

partners accordingly; the application is not properly completed, is incomplete or inaccurate and the exporter refuses to cooperate with the authorities. A similar approach is used with respect to the processing of applications for the transit of strategic goods.

The Office works closely with the Customs and Excise Department, which is responsible for the effective control of goods leaving the country. The Office may seek information from the State Intelligence Service on sensitive firms and end-users. Cooperation with the Radiation Protection Division is vital for its input based on its expertise in nuclear issues.

Customs and Excise Department, Ministry of Finance

As part of the efforts to combat fraud and drug addiction as well as to control the export, transit and import of all kinds of sensitive goods, including the chemical precursors of narcotic drugs, biological, chemical and nuclear weapons and dual-use goods, the Customs and Excise Department established on 1 January 2004, in the air freight section of Luxembourg airport, a new special unit solely responsible for air freight issues. The Unit, called the Risk-Analysis and Targeting Unit (UARC), which is supported by a surveillance brigade, is responsible for targeting sensitive air freight leaving and entering Luxembourg territory through Findel airport. In Luxembourg, Findel airport is the only direct point of entry into and exit from European Union territory, since the country is surrounded by European Union member States.

Similarly, under the Act of 5 August 1963 on the monitoring of the import, export and transit of goods, UARC has conducted continuing inspections by targeting documents or goods transiting through Luxembourg airport.

Radiation Protection Division, Ministry of Health

The Radiation Protection Division is responsible for protection of the public against the dangers of radiation. It is responsible for maintaining an updated inventory of substances, materials and equipment that emit ionising radiation.

The Radiation Protection Division also has jurisdiction, together with the Licensing Office, over transfers of nuclear material, equipment and technology.

The Radiation Protection Division, together with the Ministry of Foreign Affairs, the Licensing Office, the Customs and Excise Department and the Intelligence Service, is responsible for preventing, investigating and reporting violations with respect to the implementation of legislation relating to weapons of mass destruction.

Compliance by Luxembourg with the requirements of individual paragraphs of resolution 1540 (2004)

Paragraph 1

Decides that all States shall refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery;

Luxembourg does not provide any support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery.

Paragraph 2

Decides also that all States, in accordance with their national procedures, shall adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them;

– All the obligations under the Nuclear Non-Proliferation Treaty, the Safeguards Agreement and Additional Protocol, the Chemical Weapons Convention and the Biological and Toxin Weapons Convention have been incorporated into Luxembourg's legislation:

  • The Act of 20 December 1974 ratifying the Nuclear Non-Proliferation Treaty;

  • Act of 1 August 2001 ratifying the Additional Protocol on the strengthening of the non-proliferation of nuclear weapons designed to detect clandestine nuclear activities;

  • The Grand-Ducal Regulation of 3 June 1997 implementing the Act of 10 April 1997 ratifying the Chemical Weapons Convention;

  • The Act of 28 November 1975 ratifying the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction;

  • The amendment to the Act of 10 April 1997 ratifying the Chemical Weapons Convention provides for penalties against anyone who attempts to use, develop, produce, transfer or stockpile chemical weapons. Under Article 4, Customs and Excise officers holding the rank of deputy inspector or higher can act as police officers (*officiers de police judiciare*) with authority to investigate and report infringements of the Act wherever they may occur in the country;

  • The Act of 15 March 1983 on weapons and ammunition introduces into Luxembourg legislation the prohibition of the use of weapons or other devices containing lachrymatory, toxic, asphyxiating, irritant or similar substances to attack people;

  • The Act of 12 August 2003 on the suppression of terrorism and of its financing and the approval of the International Convention for the Suppression of the Financing of Terrorism.

Luxembourg is preparing new legislation on the strengthening of sanctions against non-State actors for weapons of mass destruction or related activities.

Paragraph 3

Decides also that all States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological

weapons and their means of delivery, including by establishing appropriate controls over related materials and to this end shall:

(a) Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport;

– Amendment to the Act of 25 March 1963 on the protection of the general public against the dangers of ionising radiation.

The Radiation Protection Division draws up an inventory at the national level of all substances, materials and equipment that emit ionising radiation. That inventory is regularly updated;

– The Grand-Ducal Regulation of 31 July 1989 on transfers of nuclear materials, equipment and technology and the conditions for their physical protection, amended by the Ministerial Regulation of 3 February 1993.

(b) Develop and maintain appropriate effective physical protection measures

– The Grand-Ducal Regulation of 31 July 1989 on transfers of nuclear materials, equipment and technology and the conditions for their physical protection, amended by the Ministerial Regulation of 3 February 1993.

The import, possession, production or transfer of nuclear materials, equipment and technological data are required to be the object of effective physical protection in order to prevent any unauthorized access, use or handling; levels of physical protection are to be at least equivalent to those recommended by IAEA or provided for under international agreements;

– Luxembourg is a party to the Treaty establishing the European Atomic Energy Community (EURATOM). The safeguards agreements provided for under Chapter 7 of the Treaty are implemented by the European Commission, which ensures that nuclear materials are not diverted from their civilian use in Luxembourg;

– Luxembourg has signed the IAEA Code of Conduct on the Safety and Security of Radioactive Sources;

– Act of 11 April 1985 ratifying the Convention on the Physical Protection of Nuclear Material.

(c) Develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in such items in accordance with their national legal authorities and legislation and consistent with international law;

– The Act of 5 August 1963 on the monitoring of the import, export and transit of goods, as amended. Customs and Excise officials are authorized to investigate and report violations of the provisions of the Act and its implementing regulations throughout the country. Violations of the Act are penalized under articles 231, 249-253 and 263-284 of the General Act on Customs and Excise;

– Community Customs Code (Council Regulation (EEC) No 2913/92);

(d) Establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations;

– The Act of 5 August 1963 on the monitoring of the import, export and transit of goods, as amended, covers licences for the import, export and transit of goods as well as technology transfer. Implementing regulations deal with specific items such as dual-use goods. Penalties for the violation of this Act are contained in the General Act on Customs and Excise. Administrative sanctions are also provided for;

– The Grand-Ducal Regulation of 31 October 1995 on the import, export and transit of arms, munitions and equipment specifically intended for military use and related technology prohibits the export, import and transit of chemical and biological weapons. This regulation is based on the Act of 5 August 1963;

– The Grand-Ducal Regulations of 5 October 2000 govern the export and transit of dual-use goods and technology. These instruments, based on the Act of 5 August 1963, implement Council Regulation (EC) No 1334/2000 on dual-use items, and add controls on goods in transit;

– Community Customs Code (Council Regulation (EEC) No 2913/92).

Paragraph 6

Recognizes the utility in implementing this resolution of effective national control lists and calls upon all Member States, when necessary, to pursue at the earliest opportunity the development of such lists;

Luxembourg is an active member of the Nuclear Suppliers Group, the Zangger Committee, the Missile Technology Control Regime, the Australia Group and the Wassenaar Arrangement. The control lists of these regimes are integrated into the regularly updated list corresponding to Council Regulation (EC) No 1334/2000, which is applicable in Luxembourg pursuant to the Grand-Ducal Regulations of 5 October 2000 on the export and transit of dual-use goods and technology.

The Grand-Ducal Regulation of 31 October 1995, on transfers of arms and munitions, also includes a list of the items covered.

Paragraph 7

Recognizes that some States may require assistance in implementing the provisions of this resolution within their territories and invites States in a position to do so to offer assistance as appropriate in response to specific requests to the States lacking the legal and regulatory infrastructure, implementation experience and/or resources for fulfilling the above provisions;

Luxembourg recognizes that certain States may require outside assistance in order to implement effectively the provisions of the resolution.

Through the European Union, Luxembourg assists certain States in setting up export control mechanisms. The Union also plans to provide assistance in the framework of the implementation of resolution 1540 (2004).

Paragraph 8

Calls upon all States:

(a) To promote the universal adoption and full implementation, and, where necessary, strengthening of multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, biological or chemical weapons;

In the framework of the European Strategy against the Proliferation of Weapons of Mass Destruction, adopted in December 2003, and through its Council Common Position No. 2003/805/CFSP of 17 November 2003, the European Union has undertaken to work towards the strengthening and universalization of multilateral treaties in the areas of non-proliferation and disarmament.

The Union regularly approaches States which are not parties to the multilateral treaties, in order to promote the universalization of those agreements.

In the framework of the Nuclear Suppliers Group, the Union is working towards the establishment of the Additional Protocol as a condition of supply, thereby encouraging the universalization of Safeguards Agreements and of the Additional Protocol.

The Union incorporates non-proliferation clauses into agreements with third States.

(b) To adopt national rules and regulations, where it has not yet been done, to ensure compliance with their commitments under the key multilateral non-proliferation treaties;

Luxembourg has enacted laws and regulations to ensure compliance with its commitments under the key multilateral non-proliferation and disarmament treaties:

- Act of 20 December 1974 ratifying the Treaty on the Non-Proliferation of Nuclear Weapons;
- Act of 1 August 2001 ratifying the Additional Protocol on the strengthening of non-proliferation of nuclear weapons in order to detect clandestine nuclear activities;
- Act of 28 November 1975 ratifying the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction;
- Act of 10 April 1997 ratifying the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction;
- Grand-Ducal Regulation of 3 June 1997 on the implementation of the Act of 10 April 1997 ratifying the Chemical Weapons Convention;
- Amendment to the Act of 10 April 1997 on chemical weapons;

(c) To renew and fulfil their commitment to multilateral cooperation, in particular within the framework of the International Atomic Energy Agency, the

Organization for the Prohibition of Chemical Weapons and the Biological and Toxin Weapons Convention, as important means of pursuing and achieving their common objectives in the area of non-proliferation and of promoting international cooperation for peaceful purposes;

The European Strategy against the Proliferation of Weapons of Mass Destruction calls for the provision of sufficient financial means to support specific IAEA projects, OPCW and the Comprehensive Nuclear-Test-Ban Treaty Organization (CTBTO). The European Union is currently preparing joint actions to provide financial support for IAEA and OPCW projects.

Luxembourg continues to provide its full support for the goals and activities of IAEA, OPCW and CTBTO. In addition to its compulsory contribution to these organizations' budgets, Luxembourg also makes voluntary financial donations to the IAEA Technical Cooperation Fund.

Luxembourg supports the strengthening of the Biological Weapons Convention, and particularly the creation of a verification mechanism and hopes that the 2006 Review Conference will take a decision to that effect.

(d) To develop appropriate ways to work with and inform industry and the public regarding their obligations under such laws;

In Luxembourg, the State collaborates closely with industry. The Licensing Office is responsible for informing enterprises of their obligations in the area of non-proliferation.

Paragraph 9

Calls upon all States to promote dialogue and cooperation on non-proliferation so as to address the threat posed by proliferation of nuclear, chemical, or biological weapons, and their means of delivery;

Luxembourg attaches great importance to international cooperation and dialogue in the areas of non-proliferation and disarmament. It promotes dialogue and cooperation in international forums, since the threat of weapons of mass destruction is a global one and must be dealt with at the planetary level.

Paragraph 10

Further to counter that threat, calls upon all States, in accordance with their national legal authorities and legislation and consistent with international law, to take cooperative action to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery, and related materials;

The Proliferation Security Initiative (PSI) is a new instrument intended to intercept illicit traffic in nuclear, chemical and biological weapons, related materials, and their means of delivery. This initiative is a major contribution to international efforts against the proliferation of weapons of mass destruction, and complementary to the European Strategy against the Proliferation of Weapons of Mass Destruction. The European Union strongly supports the Statement of Interdiction Principles of PSI, adopted at Paris on 4 September 2003.

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Security Council Committee established pursuant to resolution 1540 (2004)

Note verbale dated 28 October 2004 from the Permanent Mission of Finland to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Finland to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1540 (2004), and has the honour to submit the Finnish national report, pursuant to Security Council resolution 1540 (2004) (see annex).

04-67497 (E) 290405

Annex to the note verbale dated 28 October 2004 from the Permanent Mission of Finland to the United Nations addressed to the Chairman of the Committee

Finnish National Report on the implementation of Security Council resolution 1540 (2004)

1. Finland considers the adoption of UNSC Resolution 1540 as a great importance and is fuliy committed to the work of the 1540 Committee in ensuring the full implementation of this resolution, including — where appropriate — through providing assistance or advice to others.

2. Finland being a Member States of the European Union (EU), reference is made to the EU Common Report that will be transmitted to the UNSC 1540 Special Committee separately. The EU Report covers areas of EU and Community competences and activities in relation to UNSC Resolution 1540 and should be read in conjunction with this national report.

3. The Finnish Government's report to Parliament on Finnish Security and Defence Policy 2004 makes a broad assessment of Finland's security and defence policy as a whole. The report was published in September and is currently being dealt with in parliamentary hearings. National measures to counter the threat of WMD proliferation are among the most important issues in this report.

4. Finland has taken a range of legislative measures to prevent the proliferation of weapons of mass destruction and we continuously review our policies, with a view to establish what further measures may be necessary.

Legislative action

5. Finland has a wide range of legislative measures in place to prevent the proliferation of WMD, including by non-state actors. The centrepieces of this legislative framework are the Nuclear Weapons Act (203/1970,) the Biological Weapons Act (257/1975), the Chemical Weapons Act (346/1997), the Nuclear Energy Act (990/1987), the Act on the Control of Exports of Dual-Use Goods (562/1996) and the Penal Code, and their amendments. The Penal Code contains provisions that can be applied to terrorist acts.

6. Detailed responses as to how the Finland's legislative framework relates to specific issues raised in SCR 1540 are set out below.

Executive action

7. The Ministry for Foreign Affairs (MFA) is in charge of the Finnish non-proliferation policy, the foreign and security as well as trade policy aspects of export controls. In the MFA, the Political Department and its Unit for Arms Control, Disarmament and

Non-Proliferation, coordinate Finland's participation in the international cooperation concerned, for example in the export control regimes. The MFA's Department of External Economic Relations monitors export controls from a trade policy point of view. It is also the authority which grants authorisations for exports of dual-use goods (except Cat.0). The Energy Department of the Ministry of Trade and Industry (MTI) and, under it, the Radiation and Nuclear Safety Authority (STUK), are the authorities which grant authorisations for exports of nuclear materials, facilities and equipment (Category 0 of Annex I to the EC Export Control Regulation).

8. The Advisory Board on Export Controls, under the External Economic Department of the Ministry for Foreign Affairs, is a coordinating inter-agency body for dual-use export controls. Its mandate is to advise on relevant matters concerning domestic legislation, Finland's participation in relevant international cooperation guidelines for licensing, and individual license applications or prior enquiries, if they have foreign policy implications. The following authorities are represented in the Advisory Board: The Ministry for Foreign Affairs, the Ministry of Trade and Industry, the Ministry of Defence, the Ministry of the Interior, the Ministry of Transport and Communications, the National Board of Customs and the Finnish Security Police. In addition, the Technology Industries of Finland has a representative on the Board.

9. The Advisory Committee for Export of Defence Materiel under the Resource Policy Department of the Ministry of Defence is the corresponding inter-agency body with a mandate to advise on individual licence applications, prior enquiries and definition of defence materiel, for exports of military items. The following authorities are represented in the Committee: the Ministry for Foreign Affairs (the Political Department and the Department for External Economic Relations), the Ministry of Defence, the Defence Staff, the Ministry of the Interior (the Police Department), the National Board of Customs and the Finnish Security Police.

10. The Ministry for Foreign Affairs monitors the implementation of SCR1540, and has overseen the preparation of Finland's response to the 1540 Committee.

Enforcement action

11. Finnish Customs have the lead responsibility for preventing imports and exports of unlicensed goods, investigating offences, and taking appropriate action.

12. The Frontier Guard performs border surveillance on Finland's national borders and carries out border checks on persons entering and leaving the country at border crossing points. In connection with border checks, the Frontier Guard supervises traffic and compliance with the legal provisions concerning possession of firearms, ammunition and other dangerous objects, intoxicants, radioactive substances, and explosives and other dangerous substances.

Encouraging compliance

13. Finnish authorities inform exporters about export controls on regular basis in order to promote effective compliance. Updated information on export controls is disseminated through governmental websites, publications, seminars and workshops.

In the European Union

14. Finland has contributed actively establishing effective policies within the European Union (EU) and to prevent WMD proliferation, and will continue to do so. The Thessaloniki European Council in June 2003 agreed that preventing the proliferation of WMD should be a priority for the Union, both internally and in its relations with third countries, and agreed on an Action Plan for addressing the issue.

15. The European Council in December 2003 approved a Strategy for preventing the proliferation of WMD, which the EU is in the process of implementing. Finland has participated actively, as a representative of the Member States, in the work of the Task Force on Peer Review, which was established according to the Action Plan for the implementation of the Basic Principles for and the EU strategy against Proliferation of WMD. For example, in November 2003 the EU agreed a model non-proliferation clause to be included in all future EU-third country mixed agreements.

International Instruments

16. Finland is a State Party to the Nuclear Non-Proliferation Treaty (NPT), the Chemical Weapons Convention (CWC), the Biological and Toxin Weapons Convention (BTWC) as well as the Comprehensive Test Ban Treaty (CTBT). The prohibitions in the latter are enacted in Finnish law.

17. Finland has adopted an Additional Protocol to its IAEA Safeguards Agreement. Implementation of the Additional Protocol started in 2004 following a decision that all the EU Member States should bring Additional Protocols into force simultaneously.

18. Finland is also an active participant in all the export control regimes, notably the Missile Technology Control Regime (MTCR), the Nuclear Suppliers Group (NSG), the Zangger Committee, the Australia Group (AG), and the Wassenaar Arrangement (WA). Finland chaired the Zangger Committee in 1989-93, the NSG in 1995-96 and the MTCR in 2000-01. The export control regimes play an important role in agreeing control lists and raising international standards on export control. Finland is also a signatory to the Hague Code of Conduct on Ballistic Missiles.

19. Since September 2001, the Missile Technology Control Regime (MTCR), the Nuclear Suppliers Group (NSG), the Australia Group (AG) and the Wassenaar Arrangement (WA) have all formally adopted 'terrorism clauses' to deny terrorists' access to the

items they control. These export control regimes have followed up with increased exchanges of information to improve awareness of possible procurement attempts by terrorists.

20. Finland has expressed its support to the Proliferation Security Initiative (PSI).

Technical Assistance to Other States

21. Finland is fully committed to the work of the 1540 Committee in ensuring the global implementation of this resolution, including - where appropriate - through providing assistance or advice to others.

22. Finland is committed to the non-proliferation of nuclear materials and supports actively the strengthening and development of international safeguards related to the NPT. Accordingly Finland has established international safeguards support and cooperation programmes for Ukraine, for the Baltic States and for the Russian Federation. About 3.9 million euros have been used for these programmes since 1994.

23. Finland has participated actively in the IAEA's Coordinated Technical Support Programme (CTSP) to the NIS. Under the CTSP, Finland provided bilateral support and assistance to the Baltic States and to Ukraine in improving their systems for nuclear material control, including nuclear material accountancy and control, physical protection and export/import control. In 1995 - 2002 Finland contributed to the CTSP also through the Finnish Support Programme to the IAEA by funding a cost-free expert (CFE) to participate in the coordination work of the IAEA. In 2003, the Finnish CFE was assigned tasks related to nuclear security as in kind contribution to the IAEA's Nuclear Security Fund (NSF). Finland has also contributed the Nuclear Security Fund 10 000 euros in 2004.

24. Since 1997 Finland has had a bilateral co-operation programme with Russia which focuses on procedures to prevent illicit trafficking and to protect nuclear material against other illegal activities. So far, about 200 000 euros have been allocated annually for this programme.

25. Since 1990, the Finnish Institute for Verification of the Chemical Weapons Convention (VERIFIN) has offered, on a regular basis, basic and advanced training in analytical chemistry to help the implementation of the CWC in developing countries. In 2002, a new training course on national authority and chemical databases was offered. So far, some 150 experts from more than 64 countries have attended the training courses. In addition, VERIFIN organizes seminars and workshops and provides opportunities for foreign interns in the OPCW internship support programme. In 2003, the total expenditure in training amounted to EUR 360.000, and in 2004 the foreseen expenditure is EUR 325.000.

26. Finland participates in the destruction of the chemical weapons stockpiles in the Russian Federation in the framework of the G8 Global Partnership programme. So far, Finland has provided a fixed chemical warfare agent detection network in the Russian Federation (Kambarka and Gorny) with a total of EUR 1.000.000. The next cooperation project is under discussion.

27. The Particular Task-Force (TF) on Organised Crime in the Baltic Sea Region was set up in 1996 by the Heads of Government of the Baltic Sea States. At the beginning, the TF organised its work in expert groups dealing with narcotics, illegal migration, stolen vehicles, smuggling of highly taxed goods, trafficking in women and money laundering. Work on international gangs, cyber crime and environmental crime was included later. Special attention has been paid to combating terrorism. Finland has been the lead country in combating money laundering. Finland will take over the chairmanship of the TF from the beginning of 2005.

28. Finland organised a Border Management seminar for some Central Asian countries (Kazakhstan, Kirghizia, Tadzhikistan, Turkmenistan and Uzbekistan) in June 2002. The program included a presentation of the border control system and the border control cooperation as well as introduction the Finnish customs system - both in theory and practice.

Comments in relation to the specific issues raised by UNSCR 1540:

Operative Paragraph 1

Decides that all States shall refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery

Finland does not provide any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery. Any such support is prohibited under Finnish law. The relevant Finnish legislation is set out in this report.

Operative Paragraph 2

Decides also that all States, in accordance with their national procedures, shall adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them;

Action taken

Section 4 of the Nuclear Energy Act (990/1987 as amended) and Chapters 34 and 34 a of the Penal Code forbid and make punishable imports of nuclear explosives as well as their fabrication, possession and detonation in Finland. The maximum penalty is ten years of imprisonment.

The Chemical Weapons Act (346/1997 as amended) and Chapter 11, Section 7, of the Penal Code forbid and make punishable any development, production, stockpiling, possession and transport of chemical weapons and any participation in military preparations for the use of chemical weapons. The maximum penalty is six years of imprisonment.

The Biological Weapons Act (257/1975) and Chapter 11, Section 7 b of the Penal Code forbid any unlawful preparation, transport and delivery of a biological weapon or a toxin weapon. The Section concerned also forbids any development, preparation, other procurement, storage or possession of a biological weapon or a toxin weapon or weapons, devices or equipment for the dissemination of a biological weapon or a toxin weapon in violation of an international convention on the development, production and storage of bacteriological (biological) and toxin weapons and on their destruction. The maximum penalty is six years of imprisonment.

The Penal Code also contains provisions on penalties applied to offences committed with a terrorist intention in a separate Chapter (34 a). This Chapter provides for the sentences

applied to terrorist offences and their planning, to the directing of a terrorist group, to the promoting of a terrorist group, and to the financing of terrorism. The Chapter also contains a provision defining terrorist offences, a provision on the right of prosecution and a provision on corporate liability. An increased sentence may be passed where the offence has been committed with a terrorist intention, the maximum penalty being twelve years of imprisonment.

A new provision on sanctions applicable to violations of the prohibition on chemical weapons was also added to the Penal Code. The existing provisions prohibiting the hijacking of aircraft or vessels were adjusted, and the attempt of aggravated criminal damage was established as an offence. The amendment to the Coercive Measures Act increases in some respects the coercive means available to the police in the context of criminal investigations.

The Maritime Security Measures Act 2004 entered into force on 1 July 2004. It obliged the Maritime Administration, the Frontier Guard, the Customs and the Police to control that dangerous objects (including NBC) shall not cause any risk to vessels, harbours and persons staying in them.

Planned Action

Finland is considering what further action may be necessary.

Operative Paragraph 3

Decides also that all States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery, including by establishing appropriate controls over related materials and to this end shall:

(a)Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport;

Action taken

According to Sections 3 and 8 of the Nuclear Energy Act, any possession, production, transfer, handling, use, storage, transport, export and import of nuclear materials as well as any possession, transfer, export and import of non-nuclear materials, nuclear devices, equipment and nuclear information (technology and software) is prohibited without a license.

The Euratom (the European Atomic Energy Community) and IAEA nuclear safeguards are applied in Finland. The Additional Protocol came into force on 30 April 2004. The Nuclear Energy Act (990/1987 as amended) establishes a national nuclear accounting and control system, which complements the safeguards system created by the Euratom Treaty,

Title II, Chapter 7. Pursuant to Section 118 of the Nuclear Energy Degree, this system is maintained by the Radiation and Nuclear Safety Authority (STUK). National as well as Euratom and IAEA inspections are carried out to verify operators' reports and records.

Finland has created a national database on its industries involved in activities relevant to the CWC. According to the legislation concerned, the industries are obliged to report, to the national authority, all chemicals that, by their type and/or amount, fall in categories defined reportable according to the Chemical Weapons Convention.

According to the Firearms Act (1/1998) any trade, acquisition, possession and manufacture of firearms, firearm components, cartridges and specially dangerous projectiles is subject to authorisation. What is provided on firearms in the Firearms Act also applies to missile and rocket-launcher systems. The Ministry of the Interior grants and revokes permits for carrying on firearms trade. A firearms dealer entitled to trade on, manufacture, repair or convert firearms is obliged to keep a file of the firearms. The police examines at least once a year the files kept by the firearms dealers, as well as their bookkeeping, stores and storage facilities

Planned action

Finland is considering what further action may be necessary.

(b)Develop and maintain appropriate effective physical protection measures;

Action taken

Finland is party to the Convention of the Physical Protection of Nuclear Materials and applies the IAEA's recommendation on the Physical Protection of Nuclear Materials and Nuclear Facilities (INFCIRC 225/Rev.4 Corrected). Finland supports the proposed amendment to revise the CPPNM.

Section 9 of the Nuclear Energy Act (990/1987 as amended) obligates each licence-holder to assure any physical protection measures the responsibility for which does not rest with authorities. These measures are specified in a relevant Decision of the Council State (396/1991).

Planned action

Finland is considering what further action may be necessary

(c) Develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in such items in accordance with their national legal authorities and legislation and consistent with international law;

Action taken:

In recent years, the Finnish Customs have taken a number of measures in order to enhance the enforcement of export control at the borders. Common IT systems are being developed by the police, customs and frontier guard authorities for intelligence and investigation purposes. Furthermore, the training program on export control provided to Customs officers has been extended in order to take into account expected future developments and to better meet future requirements. Applications of risk analysis techniques and increased exchange of information at national and international level are key elements taught in the extended training program.

All the international crossing points on the Eastern border of Finland as well as the airport and a port (Länsisatama) in Helsinki have been equipped with stationary radiation monitors to screen illicit movements of radioactive materials. In addition, there is one mobile monitoring unit, which is used mainly in ports.

Legislative action

-Act on the Control of Export of Dual-Use Goods (562/1996). By virtue of section 7 of the Act, the Customs has the right of inspection and access to information to carry out its control task.

-Customs Act (1466/1994). The Customs authorities have very wide administrative and investigative powers (including the use of coercive means), which can also be used for export control purposes.

- Penalties for actual or attempted intentional violations of the Act on the Control of Dual-Use Goods are imposed under chapter 46, sections 1-3 of the Finnish Penal Code (39/1889); fines, imprisonment for a maximum of 4 years.

Information on transport of suspicious items has been exchanged between national and international law enforcement agencies. During the period under review there have not been any illegal attempts to transport weapons of mass destruction through the Finnish national borders.

The Act on the Control of Export of Dual-Use Goods (562/1996) provides new controls on trafficking and brokering in military and certain other sensitive goods.

Provisions on controlling defence material brokering were included in the Act on the Export and Transit of Defence Materiel and entered into force in December 2002 (Act on the Export and Transit of Defence Materiel 242/1990; as amended 900/2002). The concept of defence materiel is basically identical to the coverage of the Wassenaar Munitions' List as well as the EU Common List of Military Equipment.

The guiding principle is simple: the same controls apply to brokering and to export and transit of defence materiel. This means that each individual brokering transaction is subject to a brokering licence. The licensing requirement applies to brokering activities

taking place in Finnish territory. In addition, there is an extraterritorial scope of the application: if the brokering transaction takes place outside Finnish territory, the licensing requirement applies whenever the broker is a Finnish citizen, a Finnish legal entity or a Finnish resident.

Finland also applies a strict policy when it comes to end-use controls. An end-user certificate is a mandatory prerequisite for granting a brokering licence in all cases and to all destinations. The penalties for violations of brokering and end-use controls are the same, ranging from fines to four years of imprisonment.

Planned action:

The introduction of two mobile X-ray units in the Southern Customs District at the end of 2004 and in the Eastern Custom District at the beginning of 2005 will assist the Customs enforcement in preventing the spreading of weapons of mass destruction.

Finland is considering what further action may be necessary

(d)Establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations

Action taken:

The export control executed by Finland is mainly based on Council Regulation (EC) No 1334/2000 and the national Act on the Control of Exports of Dual-Use Goods (562/1996). The national Act amounts to a concise domestic legal framework on dual-use controls, containing only the essential provisions, but referring in all other respects to the EU system. The Government Decree on the Control of Export of Dual-Use Goods (924/2000) lays down further provisions on the implementation of the Act.

Chapter 34, section 8 of the Nuclear Energy Act 1987 (990/1987 as amended), creates an export license system as well as a transport license system for nuclear materials and related nuclear-specific items. Violations of the requirement for an export licence are subject to criminal penalties. A licence is required for any transport of nuclear materials and nuclear waste in Finland or through Finnish territory. In case of transit of nuclear items, an import, export and transport (only for nuclear material and nuclear waste) license is required, when applicable.

According to Section 7 of the Act on the Export and Transit of Defence Materiel (242/1990), any person who illegally exports defence materiel or who assigns or transfers abroad a licence to manufacture defence materiel or who transports, through Finnish territory, defence materiel to a third country, or brokers defence materiel, or attempts to do so, shall be fined or imprisoned for a maximum period of four years for committing an export offence.

The Customs in Finland have very wide administrative and investigative powers when detecting violations. Even though goods are being carried under cover of an international Customs transit procedure, according to Article 5 of the TIR Convention, the Customs have, in exceptional cases, the right to inspect goods at intermediate customs offices in order to prevent misuse, and according to Section 14 of the Customs Act, the Customs authority may detain goods exported from or imported into the country, if there is reasonable cause for this in order to prevent or investigate a crime.

Furthermore, the International Convention on the Harmonization of Frontier Controls of Goods, done at Geneva on 21 October 1982, which entered into force on 8 November 1985, gives the Customs the right to control goods in transit in cases where controls are required by prevailing conditions or risk factors.

End-user control - see above 3c

Planned action:

Finland is considering what further action may be necessary.

Operative Paragraph 5

Decides that none of the obligations set forth in this resolution shall be interpreted so as to conflict with or alter the rights and obligations of State Parties to the Nuclear Non-Proliferation Treaty, the Chemical Weapons Convention and the Biological and Toxin Weapons Convention or alter the responsibilities of the International Atomic Energy Agency or the Organization for the Prohibition of Chemical Weapons

Finland is a State Party to the Nuclear Non-Proliferation Treaty (NPT), the Chemical Weapons Convention (CWC) and the Biological and Toxin Weapons Convention (BTWC). Finland is also an active member of the IAEA and the OPCW.

Operative Paragraph 6

Recognizes the utility in implementing this resolution of effective national control lists and calls upon all Member States, when necessary, to pursue at the earliest opportunity the development of such lists.

Action taken

Finland is a strong supporter of effective multilateral export control regimes and is an active member of the Nuclear Suppliers' Group, the Australian Group, the Missile Technology Control Regime, the Zangger Committee, and the Wassenaar Arrangement. In this regard, Finland participates actively in the technical experts' groups of the regimes in order to update the control lists in accordance with technological developments.

Operative Paragraph 7

Recognizes that some States may require assistance in implementing the provisions of this resolution within their territories and invites States in a position to do so to offer assistance as appropriate in response to specific requests to the States lacking the legal and regulatory infrastructure, implementation experience and/or resources for fulfilling the above provisions

Finland recognises that some States may require assistance in implementing the provisions of this resolution within their territories.

Finland is willing to provide assistance, as appropriate, in response to specific requests, to the States lacking the legal and regulatory infrastructure, implementation experience and/or resources for fulfilling the provisions of Security Council resolution 1540.

Requests for assistance concerning policy issues should be directed to the Ministry for Foreign Affairs of Finland, Unit for Arms Control, Disarmament and Non-Proliferation, P.O.Box 176, FIN-00161 Helsinki, POL-05@formin.fi, Tel: +358-9-16005.

Requests for assistance concerning licensing should be directed to the Ministry for Foreign Affairs of Finland, Export Control Unit, P.O.Box 176, FIN-00161 Helsinki, KPO-08@formin.fi, Tel: +358-9-16005.

Operative Paragraph 8

Calls upon all States:

(a)To promote the universal adoption and full implementation, and, where necessary, strengthening of multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, biological or chemical weapons;

Action taken

Finland has coordinated activities facilitating the entry into force of CTBT (2003-2005).

The EU Common Position was agreed in November 2003 on the universalisation of the main multilateral non-proliferation agreements (CWC, BTWC, NPT).

Finland also supports the universalisation of the Comprehensive Safeguards Agreement and the Model Additional Protocol as a new verification standard.

Finland has supported lobbying for non-state parties to join multilateral treaties in order to achieve their universal application.

Planned action

Finland will continue to promote the universal adoption and full implementation, and, where necessary, strengthening of multilateral treaties whose aim is to prevent the proliferation of nuclear, biological or chemical weapons.

(b)To adopt national rules and regulations, where it has not yet been done, to ensure compliance with their commitments under the key multilateral non-proliferation treaties

Action taken

Finland believes that it is already compliant with its commitments under the key multilateral non-proliferation treaties.

The centrepieces of this legislative framework are the Nuclear Weapons Act (203/1970,) the Biological Weapons Act (257/1975), the Chemical Weapons Act (346/1997), the Nuclear Energy Act (990/1987), the Act on the Control of Exports of Dual-Use Goods (562/1996), the Penal Code and their amendments. The Penal Code contains also provisions that can be applied to terrorist acts.

(c)To renew and fulfil their commitment to multilateral cooperation, in particular within the framework of the International Atomic Energy Agency, the Organization for the Prohibition of Chemical Weapons and the Biological and Toxin Weapons Convention, as important means of pursuing and achieving their common objectives in the area of non-proliferation and of promoting international cooperation for peaceful purposes;

Finland continues to provide support for the work of the IAEA. Since 1998 Finland has provided extra budgetary support to the IAEA through a safeguards support programme. At the moment, the Ministry for Foreign Affairs allocates 300 000 euros for the programme annually, and the main areas of activities are training of the IAEA inspectors and development and testing of instruments and methods related to nuclear material verification.

Finland also continues to participate actively in the work of the OPCW and the BTWC by taking part in their conferences and meetings. To promote multilateral cooperation Finland has also invested in research and methods development in the field of analytical chemistry for chemical disarmament. The results of these activities have been published in scientific articles, monograph series, encyclopaedias and a book. Finland will continue its support to

the OPCW through various training programmes to help the implementation of the CWC in developing countries.

Finland has sent a delegation of relevant experts to the BWC meetings in 2003 and 2004, including experts from the defence forces as well as the civilian sector. These active expert level discussions will be followed up at the 2006 BWC Review Conference, which will coincide with the EU presidency of Finland.

(d)To develop appropriate ways to work with and inform industry and the public regarding their obligations under such laws;

Action taken

Nuclear Energy Degree, Section 129-130: Every licence holder shall appoint a person responsible for nuclear material control of the nuclear facility. This person must have an authorization granted by STUK. One of the requirements is that he/she knows the relevant legislation and regulations.

As part of intensified outreach efforts, the Finnish authorities involved in export control arranged a seminar in February 2003 in order to inform the Finnish industry about recent developments in international export control, as well as developments and changes in the national export control system. The event was attended by more than 150 company representatives.

The Finnish authorities have a close working relationship with the Finnish industry. A representative of the Technology Industries in the Advisory Board on Export Controls is an example of this. Information is also provided to industries and the public by websites, publications and leaflets.

Planned action

Finland is considering what further action may be necessary.

Operative Paragraph 9

Calls upon all States to promote dialogue and cooperation on non-proliferation so as to address the threat posed by proliferation of nuclear, chemical, or biological weapons, and their means of delivery

Finland continues to promote dialogue and co-operation on non-proliferation in a range of fora so as to address the threat posed by proliferation of nuclear, chemical or biological weapons, and their means of delivery.

Finland has engaged in meetings with national authorities of neighbouring countries concerning the CWC. The purpose of these meetings is to share information, and they are considered to be productive occasions for exchanging views on non-proliferation of chemical weapons.

Operative Paragraph 10

Further to counter that threat, calls upon all States, in accordance with their national legal authorities and legislation and consistent with international law, to take cooperative action to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery, and related materials;

Finland has taken part as observer in Proliferation Security Initiative exercises.

On a national level, Finland will enhance the co-operation between different national authorities in order to be better prepared to counter the proliferation of WMD and related material and to be better prepared to respond to consequences of their possible use.

As one example of enhanced co-operation between national authorities, Finland is planning to establish a Centre for Excellence for Biological Preparedness, including expertise from civilian and defence sectors.

Operative Paragraph 11

Expresses its intention to monitor closely the implementation of this resolution and, at the appropriate level, to take further decisions, which may be required to this end;

Finland will review the actions of this resolution at the national level on a later date and take any further decisions which may be required.

United Nations S/AC.44/2004/(02)/58

Security Council

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Security Council Committee established pursuant to resolution 1540 (2004)

Letter dated 28 October 2004 from the Permanent Representative of France to the United Nations addressed to the Chairman of the Committee

At the request of my Government, I have the honour to transmit to you, in your capacity as Chairman of the Security Council Committee established pursuant to resolution 1540 (2004), the report submitted by France in accordance with paragraph 4 of that resolution (see annex).

I should be grateful if you would have the report and this letter brought to the attention of the members of the Committee.

(*Signed*) Jean-Marc de La Sablière

04-61209 (E) 171204 291204

Annex to the letter dated 28 October 2004 from the Permanent Representative of France to the United Nations addressed to the Chairman of the Committee

Report submitted by France to the Security Council Committee established pursuant to resolution 1540 (2004), in accordance with paragraph 4 of that resolution

Overall approach of France to combating the proliferation of weapons of mass destruction and their means of delivery

1. The proliferation of weapons of mass destruction is a major threat

France considers that the proliferation of weapons of mass destruction and their means of delivery is "one of the most serious threats of our time".[1]

Furthermore, the document entitled "European Security Strategy", adopted by the Heads of State and Government meeting at the European Council in Brussels on 12 December 2003, lists the threats facing Europe and emphasizes that "proliferation of weapons of mass destruction is potentially the greatest threat to our security".

Accordingly, France endeavours, through its action in the various areas of proliferation, to bring together the members of the international community around common principles and objectives in order to confront this threat in a determined and effective manner.

2. Security Council resolution 1540 (2004) has given a new legitimacy to action to combat the proliferation of weapons of mass destruction and their means of delivery

For that reason France welcomes the adoption by the Security Council on 28 April 2004 of resolution 1540 (2004), which represents an important step forward with respect to combating the proliferation of weapons of mass destruction and their means of delivery.

Further to the statement by its President on 31 January 1992, the Security Council unanimously affirmed in the resolution "that proliferation of nuclear, chemical and biological weapons, as well as their means of delivery, constitutes a threat to international peace and security".

The resolution emphasizes, in particular, the threat of "terrorism and the risk that non-State actors (...) may acquire, develop, traffic in or use nuclear, chemical and biological weapons and their means of delivery".

The international community therefore affirmed "its support for the multilateral treaties whose aim is to eliminate or prevent the proliferation of nuclear, chemical or biological weapons and the importance for all States parties to these treaties to implement them fully in order to promote international stability".

3. Action by France is part of a European approach

France has been working for a long time to prevent and combat the proliferation of such weapons and their means of delivery, and is strengthening its

commitment in that area with a view to enhancing the effectiveness of the resolution.

Within the European Union, France contributed to the drafting of the European Union Strategy against the Proliferation of Weapons of Mass Destruction, which was also adopted on 12 December 2003 by the European Council and which establishes the framework of action by the Union and its members.

In this connection, as a member of the European Union, France refers here to the joint report of the Union which will be transmitted separately to the Security Council Committee established pursuant to resolution 1540 (2004). The joint report covers the fields of competence of the European Union and of the Community, as well as action taken in connection with Security Council resolution 1540 (2004), and it must be considered as complementary to this national report.

In addition, France is also cooperating with the members of the G-8 and, on an ad hoc basis, with other partners, within the framework of the groups of suppliers of which France is a member, and the Proliferation Security Initiative.

Structure of the report of France to the Security Council Committee

- The first part of the document summarizes the commitments undertaken by France with respect to non-proliferation. It provides an account of the implementation of the treaties, and of the multilateral conferences and initiatives to which France is a party. It also recalls France's European commitment with respect to non-proliferation (I).
- The second part identifies the various administrations involved in the implementation of resolution 1540 (2004), their respective responsibilities and the existing coordination measures (II).
- The third part of the document considers, in the light of the various matters covered by the resolution, the measures taken by France which are helping to reducing the risk of the proliferation of weapons of mass destruction and their means of delivery (III).

I. France's commitment to non-proliferation through treaties and multilateral conferences and initiatives, and within the European Union

1. France is a party to all the international instruments for the prevention of the proliferation of nuclear, chemical and biological weapons and their means of delivery

(a) Nuclear non-proliferation

In 1992, France ratified the Nuclear Non-Proliferation Treaty, which it regards as the cornerstone of the international non-proliferation regime. In taking the decision to extend the treaty indefinitely — a decision in which France participated actively — the participants in the 1995 Conference of States parties chose to preserve the considerable achievements of the Treaty since its entry into force in 1970 and to perpetuate them and at the same time (in the decision on the principles and objectives for nuclear non-proliferation and disarmament, the decision on

strengthening the review process and the resolution on the Middle East) adopted a dynamic and proactive approach to its implementation.

France plays an active part in initiatives to strengthen the nuclear non-proliferation regime in order to meet the challenges that threaten the future of the Non-Proliferation Treaty. It seeks to ensure that such action preserves the right to the peaceful uses of nuclear energy recognized by article IV of the Treaty, and does not divide the international community.

France supports the central role of the safeguards system of the International Atomic Energy Agency (IAEA). Within the safeguards system, the implementation of an additional protocol, together with the implementation of a comprehensive safeguards agreement is essential in order to provide complete certainty that non-proliferation commitments under the Treaty are being respected. France seeks to ensure that IAEA is provided with the human, financial and technical resources commensurate with the mandate entrusted to it by the international community in order for its verification mission to be credible. However, France also remains conscious of the need for adequate funding of the Agency's other priorities, in particular promotional and technical cooperation activities. France considers that, given the nature of its activities, IAEA also has a role to play in preventing the risk of nuclear and radiological terrorism.

France also takes an active part in the review process of the Convention on the Physical Protection of Nuclear Material, with a view to strengthening it.

Together with its European Union partners, France is subject to international controls over civilian nuclear material. Such controls are carried out by two international bodies: IAEA and the European Commission (in connection with the implementation of chapter 7 of the Treaty Establishing the European Atomic Energy Community (EURATOM)). On 22 September 1998, in order to participate in the strengthening of IAEA safeguards, France signed an additional protocol to its safeguards agreement. The protocol entered into force at the same time as those of the other members of the European Union, on 30 April 2004.

France supports the principle of nuclear-weapon-free zones, provided that they are the result of a unanimous decision by the States of the region concerned, that they are geographically and militarily appropriate and do not contravene the existing universal principles of international law (in particular the law of the sea). Among the nuclear-weapon States, it is France that is a party to the greatest number of protocols annexed to treaties on nuclear-weapon-free zones. It emphasizes the relevance, in terms of security, of the concept of zones free of weapons of mass destruction and their means of delivery.

France has acceded to the Comprehensive Nuclear-Test-Ban Treaty and has dismantled its testing site in the Pacific. It is promoting the entry into force of the Treaty as soon as possible. Pending the entry into force of the Treaty, it is making an active financial and technical contribution to the work of the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization.

France is in favour of initiating negotiations at the Conference on Disarmament, on a treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices (fissile material cut-off treaty). In February 1996, France announced the definitive closure of the facilities for the

production of fissile materials for nuclear weapons at Pierrelatte and Marcoule and has begun to dismantle them.

(b) Chemical and biological non-proliferation

France is a depositary of the 1925 Geneva Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare and in 1996 withdrew all the reservations to which its signature to the Protocol had been subject at the time.

Chemical non-proliferation

France played a leading role in the drafting and subsequent entry into force of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (Chemical Weapons Convention): in 1989 France convened a conference in Paris to relaunch negotiations on chemical disarmament, and hosted the signing ceremony of the Convention on 10 January 1993, also in Paris. On 2 March 1995, France became the first permanent member of the Security Council to ratify the Convention, which imposed the concept of total prohibition subject to verification by international inspectors.

It is now a matter of ensuring that the Convention becomes universal. France is taking part in all the efforts being made internationally to encourage all those States that have not yet done so to ratify or accede to the Convention.

Biological non-proliferation

As early as 1972, France acknowledged the importance of the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction by adopting domestic legislation containing provisions analogous to the obligations set forth in the Convention.

It acceded to the Convention in 1984 and has since worked unremittingly to strengthen it and improve its implementation.

France also emphasizes the need for the universalization of the Convention and the continuation of efforts to combat the proliferation of biological weapons, on the understanding that such efforts should not impede the transfer of knowledge for peaceful purposes.

(c) Ballistic non-proliferation

France is a signatory of The Hague Code of Conduct against Ballistic Missile Proliferation (The Hague Code of Conduct). It played a major part in negotiating the terms of the Code, which it regards as an important first step towards the definition of a minimum framework common to all countries with respect to ballistic non-proliferation. France is therefore seeking to promote both the universalization of the Code and the effective implementation of confidence-building measures between its members. On that basis, it has submitted substantial proposals relating, in particular, to the format of pre-launch notifications of ballistic missile and space vehicle launches.

2. France is an active member of the various export control regimes for sensitive materials, equipment and technologies

France is a member of the groups of suppliers seeking better control of exports of sensitive materials and technologies, namely the Nuclear Suppliers Group (NSG), the Australia Group, the Zangger Committee, the Wassenaar Arrangement and the Missile Technology Control Regime (MTCR).

Some of these groups (MTCR, NSG, the Australia Group and the Wassenaar Arrangement) have developed a "terrorism clause" which is designed to ensure more effective prevention of the acquisition by non-State groups of weapons of mass destruction, their means of delivery or technologies and materials that could be used to develop them.

In particular, France is the contact point (secretariat) of the MTCR and at least once a year organizes a meeting of the delegations of the Member States. It is working in particular to ensure, through cooperation among non-Member States, that the MTCR is better placed to act against the proliferation of ballistic missiles currently taking place outside the regime.

3. Through its European commitments, France is an essential actor in the European Strategy against the Proliferation of Weapons of Mass Destruction, drawn up at the European Council in Thessaloniki in June 2003 and adopted at the European Council in Brussels on 12 December 2003

France is committed to the policies of the European Union to prevent the proliferation of weapons of mass destruction and their means of delivery.

In terms of community policies, France is a founder member of the Treaty establishing the European Atomic Energy Community (EURATOM), the purpose of which is to develop the peaceful uses of nuclear energy. More generally, its regime for the control of the export of dual-use items is based on Regulation (EC) No. 1334/2000 of 22 June 2000, amended by Regulation (EC) No. 1504/2004 of 19 July 2004, which is directly applicable under French law.

Numerous actions, with which France has been closely associated, have also been conducted through the European Union's foreign policy and security policy. They include, in particular, the European Code of Conduct on Arms Exports (statement of the Council of the European Union of 8 June 1998), and joint actions and positions designed to promote the universality of the non-proliferation treaties and regimes and to assist and support States or organizations in their efforts in that field.

The European Strategy against the Proliferation of Weapons of Mass Destruction, drawn up at the European Council held in Thessaloniki in June 2003 and adopted by the European Council in Brussels on 12 December 2003, now provides an overall framework for such actions.

4. This commitment also takes the form of action by France within multilateral forums and in connection with ad hoc initiatives

France supports the non-proliferation initiatives adopted in multilateral forums. On that basis, it was a sponsor of the text of Security Council resolution 1540 (2004).

France has also supported G-8 initiatives in this field, including the Global Partnership against the Spread of Weapons and Materials of Mass Destruction launched in 2002, in connection with which France undertook to contribute up to 750 million euros to the G-8 Action Plan on Non-proliferation, announced on 9 June 2004.

France is also one of the founder members of the Proliferation Security Initiative (PSI). In the Statement of Interdiction Principles, issued in Paris in September 2003, the PSI participants undertook not to transport cargoes involving proliferation, to intercept them where necessary and to cooperate to that end, in particular in cases where the countries concerned do not themselves have the means of acting.

France is a party to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and is participating actively in the work of revising the Convention with a view to incorporating in it offences relating to the deliberately illegal transport of weapons of mass destruction and related material.

II. Administrations involved in the implementation of Security Council resolution 1540 (2004)

France does not have one single department mandated to combat the proliferation of weapons of mass destruction and their means of delivery. State activities are based on the mobilization and coordination of all the departments and administrations that may be able to contribute to the prevention and elimination of illegal activities in this field.

1. Inter-ministerial coordination structures

Significant inter-ministerial coordination takes place in the area of preventing and combating the proliferation of weapons of mass destruction.

The principles of export policy for nuclear materials are defined at the highest national level by the Nuclear Foreign Policy Council. Export applications are reviewed by an inter-ministerial group presided over by the Ministry of Foreign Affairs and consisting of the Ministry of Defence, the Ministry of Industry, the Atomic Energy Commission and the General Secretariat for National Defence.

The General Secretariat for National Defence, a department of the Prime Minister's Office responsible for inter-ministerial coordination in the fields of defence and security, presides over and provides secretariat services for the inter-ministerial bodies responsible for examining, prior to government rulings, issues relating to the export of arms, materials, equipment and technology of a sensitive nature.

In the specific area of arms exports, export applications are studied by the Inter-ministerial Committee for the Study of Military Equipment Exports, which gives its opinion on the appropriateness of the export. The Committee is comprised of the various ministries concerned (the Ministry of Foreign Affairs, the Ministry of Defence and the Ministry of Economic Affairs, Finance and Industry on a permanent basis and, depending on the particular case, any other qualified ministry or administration). It is presided over by the Secretary-General for National Defence. It implements the principles established by the Government, in particular

the principle prohibiting any involvement in the proliferation of weapons of mass destruction and their means of delivery. Export applications that pose a risk in that respect are therefore systematically denied.

The General Secretariat for National Defence is also responsible for updating the guidelines used by the Inter-ministerial Committee for the Study of Military Equipment Exports and for studying legal and administrative developments in the area of control. Inter-ministerial activities are therefore designed to promote a unified export strategy for French equipment within a legal and diplomatic framework that respects France's commitments.

In addition, the General Secretariat for National Defence coordinates the implementation of inter-ministerial procedures for controlling exports of materials, equipment and technology of a sensitive nature. It is the driving force behind the prevention policy and is responsible for State vigilance. The Inter-ministerial Information Committee conducts inter-ministerial activities in the area of information.

In the field of the non-proliferation of chemical weapons, France, with a view to ensuring the efficient implementation of the Convention, has established the Inter-ministerial Committee for the Implementation of the Chemical Weapons Convention. It is presided over by the Prime Minister, and coordinates relevant State activities at the domestic level.

2. Ministry of Defence

The Ministry of Defence, through the Chief of Staff of the Armed Forces, the General Weapons Division and the Strategic Affairs Division, takes part in controlling the export of weapons and sensitive materials and is involved in monitoring the various treaties and multilateral agreements and the functioning of the groups of suppliers. The Ministry's information services participate in the risk assessment process, the definition of information requirements and the collection of information.

3. Ministry of Foreign Affairs

Combating the proliferation of weapons of mass destruction is one of France's foreign policy priorities. That policy focuses on two main areas, namely support for the international system for combating proliferation and a specific commitment to actions to prevent and combat proliferation.

The aim is to foster awareness of the threat posed by proliferation and to contribute to the strengthening of the international system for preventing and combating the proliferation of weapons of mass destruction.

The Ministry of Foreign Affairs plays a part in defining and managing the actions taken by France within the European Union, particularly in the context of the European non-proliferation Strategy.

It coordinates France's position within multilateral bodies dealing with non-proliferation and/or arms control (United Nations Security Council and General Assembly, IAEA, the Organization for the Prohibition of Chemical Weapons, the Conference on Disarmament) and other forums, such as the G-8 and the North Atlantic Treaty Organization.

In conjunction with the other ministries and administrations concerned, it holds bilateral talks with various countries in order to increase their awareness of the risks posed by proliferation and ways of addressing them.

The Ministry of Foreign Affairs also monitors treaties and international agreements on non-proliferation, arms control, disarmament and the transfer of sensitive materials and technologies. French diplomats are also actively involved in activities designed to supplement the international system for non-proliferation by means of negotiations and the promotion of new instruments.

It participates in the export control process, sitting on all the inter-ministerial bodies concerned with the export of military equipment or dual-use goods and presides over the inter-ministerial body responsible for nuclear exports. It coordinates France's position within groups of suppliers (the Missile Technology Control Regime (MTCR), the Nuclear Suppliers Group (NSG), the Australia Group and the Wassenaar Arrangement) and heads French delegations to those bodies. In addition, in accordance with the provisions of the Chemical Weapons Convention, the Ministry of Foreign Affairs was designated as the "national authority" responsible for the comprehensive monitoring of relations with the Organization for the Prohibition of Chemical Weapons, which is based in The Hague.

It also coordinates France's activities in the context of international non-proliferation initiatives, such as the G-8 Global Partnership or the Proliferation Security Initiative.

At the international level, the Ministry of Foreign Affairs holds negotiations and monitors bilateral and multilateral assistance programmes.

It takes part in the collection, analysis and dissemination of information on issues relating to non-proliferation, in particular with its partners in the groups of suppliers.

4. **The Ministry of Economic Affairs, Finance and Industry**

The Ministry of Economic Affairs, Finance and Industry, through the Directorate-General for Customs and Indirect Taxation, is responsible for monitoring the movement of strategic items and military equipment and also plays a part in protecting and preventing illegal trafficking. The Directorate-General for Customs and Indirect Taxation issues export licences for military equipment and dual-use goods.

The Directorate-General for Industry, Information Technology and Posts plays a role in monitoring technological developments in sensitive areas and takes part in the process of designating dual-use goods. It also informs businesses and administrations about legislation in that field. In addition, it takes part in the examination of export licence applications and in direct coordination between the monitoring offices of States members of the European Union and the various regimes implemented pursuant to article 15 of Regulation (EC) No. 1334/2000.

The Directorate-General for Energy and Raw Materials monitors the key sectors of raw nuclear materials and participates in the control process for exports of sensitive materials and major nuclear equipment (in particular reactors) and in the development of regulations concerning nuclear non-proliferation.

The Senior Security Officer of the Ministry of Economic Affairs, Finance and Industry is responsible for implementing measures relating to the control and physical protection of nuclear materials, on site and in transit, and those relating to the protection of nuclear facilities against malicious acts. On behalf of the Minister for Industry, he also introduces measures for the implementation of the Chemical Weapons Convention and prepares measures for the implementation of the Biological Weapons Convention.

The Institute for Radioprotection and Nuclear Safety lends its expert assistance to the Senior Security Officer. A public establishment falling within the joint purview of the Ministers of Defence, of the Environment, of Industry, of Research and of Health, the Institute carries out research and provides expert advice in, inter alia, the areas of the protection and control of nuclear materials and products likely to be used for the manufacture of weapons and the protection of facilities and means of transport against malicious acts (theft or diversion of nuclear material, sabotage). It also contributes to compliance with France's international obligations in the nuclear and chemical fields. The Institute's Department for the Implementation of International Controls interacts with the public authorities and operators in order to ensure that the international controls relating to non-proliferation are implemented within the national territory. In particular, the Department is responsible for preparing and monitoring controls (especially for centralizing accounting data).

5. Ministry of Health

The Ministry of Health, through the French Agency for the Safety of Health Products is involved in the manufacture, import, export, possession, transfer free of charge or in return for payment, acquisition and transport of certain biological agents which cause infectious diseases, pathogenic and micro-organisms and toxins. Under the new Framework Act on Public Health adopted in 2004, the Agency has, inter alia, broad inspection powers in those areas.

The Senior Security Officer of the Ministry of Agriculture and the Ministry of Research are also consulted on these issues and, more broadly, on research-related questions.

6. Judicial authority and security services

To complement the bodies responsible for the monitoring of activities that may have an effect on proliferation, the judicial and security services have a preventive and repressive role. Hence, the Ministries of Justice, of the Interior and of Defence are involved in combating violations of the regulations in this area, in particular the illicit trade in materials or technologies, and, together with the Directorate-General for Customs and Indirect Taxation, in border control.

7. Atomic Energy Commission

The Atomic Energy Commission is an essential player in both the civilian and military aspects of nuclear materials. The Director of International Relations of the Commission is also France's representative on the Board of Governors of IAEA. The Department for Military Applications of the Commission has been designated by the French authorities as the implementing agent for the Nuclear-Test-Ban Treaty Organization. The Commission also acts as the secretariat for the Inter-ministerial Technical Committee on Issues Relating to the Implementation of the Euratom

Treaty. That secretariat is, inter alia, responsible for relations with IAEA and the European Commission with regard to the implementation of international controls on nuclear materials within French territory.

III. Measures taken by France in implementation of resolution 1540 (2004)

Text of resolution 1540 (2004):

The Security Council, (...)

1. Decides that all States shall refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery;

France is firmly committed to the fight against the proliferation of nuclear, chemical and biological weapons and their means of delivery and more generally to the promotion of international peace and security. Accordingly, it could not under any circumstances provide any kind of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use such weapons.

Any such action is punishable under French law in accordance with the modalities described in this report.

2. Decides also that all States, in accordance with their national procedures, shall adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them;

Pursuant to Act No. 80-572 of 25 July 1980 on the protection and monitoring of nuclear material, the import, export, production, possession, transfer, use or transport of nuclear material[2] is subject to prior authorization. The Act penalizes any improper acquisition of nuclear material or any engagement in the aforementioned activities mentioned without prior authorization.

This Act is supplemented by Act No. 89-434 of 30 June 1989 incorporating the Convention on the Physical Protection of Nuclear Material. The latter Act expands the list of offences and imposes the same penalties as are imposed under Act No. 80-572 on anyone who, without prior authorization, possesses, transfers, uses or transports out of the territory of the French Republic any of the nuclear material covered by this Act. It also amends the Code of Criminal Procedure by authorizing the prosecution of any person present in France who has been convicted outside France of the offence of improper acquisition, a deliberate attempt on life or integrity of the person, theft, extortion, blackmail, fraud, abuse of trust, receiving and concealment, destruction, damage or degradation, or threatening to inflict harm on the persons or property specified in Books II and III of the Criminal Code, when the offence is committed with the aid of nuclear material falling within the scope of articles 1 and 2 of the Convention or when it relates to such material.

With regard to the non-proliferation of chemical weapons, the French Parliament adopted Act No. 89-467 of 17 June 1998 on the implementation of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction. This Act incorporates the Convention into domestic law and sets out the modalities of its implementation. It prohibits and penalizes the use, development, production, stockpiling, possession, preservation, acquisition, transfer, import, export, transit, trading and brokering of chemical weapons.

In the case of the non-proliferation of biological weapons, Act No. 72-467 prohibiting the development, production, possession, stockpiling, acquisition and transfer of biological or toxin-based weapons prohibits the foregoing activities in connection with biological weapons or agents which might be used in their manufacture. It also prohibits inciting any State, enterprise, organization, group or person to engage in these activities or assisting it in doing so. This Act is supplemented by the Order of 22 September 2001 (as amended on 15 January 2004 and 30 July 2004) on the manufacture, import, export, possession, transfer free of charge or in return for payment, acquisition and transport of certain biological agents which cause infectious diseases, pathogenic micro-organisms and toxins.

Act No. 2004-204 of 9 March 2004 bringing the justice system into line with developments in criminal matters increases the penalties for certain offences relating to biological weapons covered by the 1972 Act, in particular when such offences are committed by organized gangs. It also creates a new offence, the dissemination of processes for the manufacture of destructive devices from explosive powders or substances or from nuclear, biological or chemical materials.

Pursuant to articles 421-1 and 421-3 of the Criminal Code, the penalties which may be imposed on the perpetrators of certain weapons-related offences are increased when they are committed in connection with an individual or collective enterprise the objective of which is seriously to disrupt the public order by intimidation or terror. The following are the offences relating to nuclear, biological and chemical weapons referred to in article 421-1:

- The offences specified in articles 1 and 4 of the Act of 9 June 1972 (biological and toxin-based weapons);
- The offences specified in articles 58 to 63 of the Act of 17 June 1998 (chemical weapons);
- The acquisition, possession, transport or unlawful carrying of explosive substances or devices manufactured from such substances, specified in article 38 of the Decree-Act of 18 April 1939 setting out the schedule governing war materiel, weapons and ammunition;
- The possession, carrying or transport of weapons or ammunition included in categories 1 and 4 in articles 24, 28, 31 and 32 of the Decree-Act of 18 April 1939. Article 2, paragraph 10, of the Decree of 6 May 1995 on the application of the Decree of 18 April 1939, setting out the schedule governing war materiel, weapons and ammunition, classifies explosive nuclear devices, their specific components and the specialized tools for their manufacture and testing as category-1 war materiel.

The main consequence of the commission of one of these offences in the context of a terrorist organization is the increase of the maximum penalties which may be imposed, in accordance with the provisions of article 421-3 of the Criminal Code.

The provisions of the Criminal Code relating to terrorism also cover the financing of terrorist organizations (art. 421-2-2) and the release into the environment of toxic substances likely to endanger human or animal health or the natural environment (arts. 421-2 and 421-4).

3. Decides also that all States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical or biological weapons and their means of delivery, including by establishing appropriate controls over related materials and to this end shall:

(a) Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport;

Pursuant to Act No. 80-572 of 25 July 1980 on the protection and monitoring of nuclear material, the manufacture, possession, transfer, use and transport of fusible, fissionable or breeder nuclear material are subject to authorization and monitoring. Furthermore, in this area France is bound by the international obligations stemming from its membership in the European Atomic Energy Community (EURATOM) and the International Atomic Energy Agency (IAEA).

The purpose of the implementation of the Act of 25 July 1980 and of its enabling regulations is to prevent and, where necessary, detect without delay any disappearance, loss, theft or diversion of nuclear material in French territory. This purpose is apparent from the key words of the Act: authorization, monitoring, sanctions.

Anyone who wishes to engage in activities connected with the possession, use, transfer, import, export or transport of nuclear material must obtain prior authorization. This authorization carries with it administrative and technical obligations appropriate to the activities in question.

Both the administrative, technical and accounting aspects of the authorized activities and the measures designed to prevent theft and diversion of nuclear material are monitored. This monitoring is the responsibility, firstly, of the nuclear operator and, secondly, of the governmental authorities, which have among their personnel sworn agents empowered to act by the State (nuclear material inspectors).

Criminal sanctions may be imposed in respect of certain offences, such as improper or unauthorized possession of nuclear material, obstruction of monitoring by governmental authorities, or failure to declare the disappearance, loss or diversion of such material.

This Act is supplemented by several enabling texts, dealing, inter alia, with the transport and monitoring of and accounting for nuclear materials as well as with its containment, surveillance and physical protection.

In addition, France is a party to the Treaty establishing the European Atomic Energy Community, Chapter 7 of which provides for the monitoring of nuclear safety. This security monitoring enables the Commission to verify that the specified ores, raw materials and fissile materials are not diverted from the uses declared for

them by their users. It also enables the Commission to verify compliance with the special monitoring commitments undertaken by the Community in an agreement with a third State or an international organization.

According to this Treaty and Regulatory Schedule No. 3227/76 on the application of the EURATOM provisions on the monitoring of nuclear safety, all accounting information about such materials and descriptions of installations containing them must be transmitted to the Commission.

Furthermore, the Commission has the power to send inspectors to any place in France where nuclear materials for civilian use are located. The Commission's inspection visits in France in 2002, for example, totalled over 2,500 man-days.

It should also be noted that Regulatory Schedule No. 3227/76 is being revised to take into account, among other things, the entry into force of the additional protocol and the new obligations for the Commission arising therefrom.

France has also entered into commitments vis-à-vis IAEA in connection with a voluntary offer of France/EURATOM/IAEA safeguards (INFCIRC/290). Under this legal instrument, accounting reports on nuclear materials subject to IAEA safeguards are transmitted regularly to the Agency. On this basis, the Agency carries out inspections at designated installations.

In addition, information on imports and exports of ore concentrates and nuclear materials are transmitted regularly to IAEA in accordance with documents INFCIRC/207, 290 and 415.

The additional protocol to the France/EURATOM/IAEA Safeguards Agreement entered in force, together with the additional protocols of the other members of the Community, on 30 April 2004. Under that protocol, France will furnish additional information to IAEA, for example on activities carried out in cooperation with non-nuclear-weapon States in connection, inter alia, with research and development work on the nuclear fuel cycle. Exports of certain types of equipment will also be declared regularly to IAEA. The purpose of this commitment is to facilitate the detection of secret nuclear activities in a non-nuclear-weapon State. To this end, IAEA may also request additional access to French installations.

France, which is not a chemical-weapon State within the meaning of the Chemical Weapons Convention, acquired, by Act No. 98-467 of 17 June 1998 on the implementation of the Convention, a means of fulfilling its obligations under that Convention. France is up to date in its obligation to declare military and civilian sites subject to international verification to the Organization for the Prohibition of Chemical Weapons and has, moreover, already received in France more than 30 inspection missions from that organization. These inspections, conducted regularly at various sites, have always demonstrated France's strict fulfilment of its commitments under the Convention. Furthermore, Decree No. 98-36 of 16 January 1998 specifies the conditions for the storage of old chemical weapons (predating 1925) pending the establishment of a site for their destruction.

The Order of 22 September 2001 (as amended on 15 January and 30 July 2004) on the manufacture, import, export, possession, transfer free of charge or in return for payment, acquisition and transport of certain biological agents which cause infectious diseases, pathogenic micro-organisms and toxins imposes the requirement of a specific authorization from the French Agency for the Safety of

Health Products in respect of each activity of this kind. These authorizations are subject to monitoring by the Directorate-General for Customs and Indirect Taxation. All acquisition and transfer transactions are recorded in a special register numbered and initialled by the local mayor or police commissioner. The recipients are required to submit an annual statement of movements of the substances held.

(b) Develop and maintain appropriate effective physical protection measures;

The physical protection of installations presenting a risk of proliferation is governed in France by Ordinance No. 58-1371 of 29 December 1958 on the strengthening of the protection of vitally important installations. All French nuclear installations, as well as a number of industrial (chemical and biological) sites presenting such a risk, are classified as installations of vital importance to the Nation. The law requires the owners of such installations to contribute financially to their physical protection.

Operators are thus under an obligation to provide effective protection of their installations in order to prevent any malicious act or act of sabotage which might affect the operation of the site and/or public safety. The measures taken in this respect supplement those taken by the governmental authorities for the protection and monitoring of nuclear material.

The protection of the installations depends on close collaboration between the operators and the governmental authorities. This collaboration entails the assignment of responsibilities to installation managers, who are required to establish:

- A security management policy;
- A system of physical and human protection (detection fence preventing/delaying intruder access) based on the principle of in-depth defence (detection, delay, intervention);
- The surveillance of personnel working at or having access to the site (administrative inquiries, authorizations, etc.).

In addition to publishing the regulations specifying the security requirements for sensitive sites and the threats, the governmental authorities ensure the protection and external defence of the installations, including defence against attack from the air, and make provision for intervention by the forces of law and order when necessary.

In the specifically nuclear field, France bases its physical protection system on the Convention on the Physical Protection of Nuclear Material, to which it is a party. At the national level, the physical protection of nuclear material is regulated by Act No. 80-572 of 25 July 1980 on the protection and monitoring of nuclear material and by its various associated decrees, orders and instructions for implementation.

Since nuclear materials are particularly vulnerable during transport, their movement requires special protection rules. These rules take account, in accordance with international standards, of the degree of sensitivity of the materials in question and the quantity to be transported, on the basis of their classification into three sensitivity categories. Nuclear materials in category 1 (plutonium for example) are the most carefully protected.

This type of transport is thus subject to special protection measures covered by the official secrets regulations with respect both to their design and to their implementation. These measures are backed up by real-time monitoring of the transport operations by the Operational Transport Unit, a technical support unit operating under the auspices of the Senior Security Officer of the Ministry of Economic Affairs, Finance and Industry in the Institute for Radioprotection and Nuclear Safety. The safety design rules (fire and drop resistance, protection against ionizing radiation, thermal protection, etc.) make a big contribution to the protection of containers against external attack. These measures of protection against acts of terrorism are evaluated under programmes run by the Institute on behalf of the Senior Security Officer. In operational terms, specific and systematic instructions are issued to the civil defence agencies in respect of every shipment of nuclear material in order to ensure the protection of the people living in the zones through which the shipment passes.

Installations other than nuclear installations are governed by specific regulations deriving from European Directive No. 96/82/EC of 9 December 1996 (SEVESO 2). This directive applies to more than 1,200 establishments in France, mainly in the petroleum and chemical sectors. It is applied in French law through Act No. 76-663 on classified installations, its enabling decree of 21 September 1977 and a ministerial order of 10 May 2000. This legislation imposes on the operator the duty of assessing all the risk factors with regard to accidents and attacks, including the risk of malicious acts. The operator maintains an inventory of all the hazardous substances held in his establishment and keeps the local prefect informed on this matter. He must also prevent any risk of intrusion by taking ad hoc security measures (fences around buildings, securing of warehouse doors, access-control systems, and even round-the-clock guards with video surveillance). The installation of such facilities at SEVESO sites is supervised by the regional directorates for industry, research and the environment of the Ministry of Economic Affairs, Finance and Industry.

In addition, in order to avoid the transmission of knowledge or know-how which may be of use in proliferation programmes, Ministerial Instruction No. 486 of 1 March 1993 requires every manager of an establishment subject to a restrictive schedule or to monitored access to seek authorization from the Senior Security Officer of his lead ministry (Ministry of Industry for enterprises, Ministry of Research for laboratories) when he wishes to admit a visitor or a trainee who is not a national of the European Union.

(c) Develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in such items in accordance with their national legal authorities and legislation and consistent with international law;

France's civilian and military security organs have been mandated, as their permanent priority mission, to prevent, detect and combat illicit trafficking in and unauthorized brokering of the items in question. Accordingly, France has set up an Expert Criminal Investigation Department to Suppress Trafficking in Arms, Explosives and Sensitive Materials, which is mandated to conduct investigations to eliminate illicit trafficking in the nuclear, radiological, biological and chemical fields.

In addition, by adoption of Decree No. 2002-23 of 3 January 2002 amending Decree No. 95-589 of 6 May 1995 relating to the implementation of the Decree-Law of 18 April 1939 establishing the regime governing war materiel, weapons and ammunition, France has regulated arms dealing. It has established a specific system of authorizations for such activities as well as sanctions.

Moreover, there is sustained bilateral or multilateral cooperation between the French security organs and their counterparts abroad, at the European or the international level. This cooperation focuses on operational questions and the establishment of common principles (as, for example, the procedures for monitoring visitors and trainees in scientific institutions).

The pursuit of customs violations related to trafficking in weapons, ammunition and explosives has since 2002 been part of the monitoring scheme (the list of priorities in the detection of offences, annually revised by the Directorate-General for Customs and Indirect Taxation). This involves contraband weapons, ammunition and explosives, and the monitoring of compliance with embargoes and of war materiel and goods likely to fall under the dual-use regulations. The customs services are thus particularly alert to uncovering this type of fraud.

Furthermore, regardless of the mode of transport — whether air, road, maritime, postal or express freight traffic — appropriate targeting and risk-assessment methods are applied, especially at the strategic entry points into the country (the ports, airports and postal clearance zones) in conjunction with detection tools such as scanner-type equipment, ionscans, and equipment for the detection of radioactive material, operated in liaison with France's Atomic Energy Commission.

The French customs service participates in certain trials in collaboration with the Atomic Energy Commission in order to combat illicit trafficking more effectively and improve the detection of radioactive material. For instance, the custom service of the port of Le Havre has been designated as a trial participant under the "Euritrack" project, aimed at detecting and identifying specific chemical, biological and nuclear materials that can be hidden in containers.

In addition, the customs services in the field convey all information having to do with proliferation to the National Customs Information and Investigation Department, which centralizes the data and carries out analyses based on both open and restricted sources, with international cooperation (the International Mutual Administrative Assistance arrangement).

The French customs service also participates in activities sponsored under the Proliferation Security Initiative.

Moreover, it is a participant in the Container Security Initiative, a United States programme that aims to expand customs cooperation in order to improve the screening of shipping containers that might contain weapons of mass destruction.

At the Community level, work is under way to amend the European Union Customs Code by requiring economic operators to supply advance information, applicable to all modes of transport. This will make it possible to improve customs targeting and controls.

Lastly, in all the major French ports, the customs databases are linked to the port databases; this also facilitates the targeting of goods.

(d) Establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations;

There are two sets of regulations establishing controls on nuclear, chemical and biological products and their means of delivery.

The general regime governing war materiel, weapons and ammunition was established by the Decree-Law of 18 April 1939. This piece of legislation classifies war materiel, weapons and ammunition in separate categories, covered by specific regimes governing production, possession, import and export. Provision is also made for criminal penalties for actions that violate the established authorization or control regimes.

The chemical weapons under schedule 1 of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction of 13 January 1993 are covered by Act No. 98-467 of 17 June 1998, implementing the Convention, by the Decree-Law of 18 April 1939, establishing the regime governing war materiel, weapons and ammunition and by their enabling texts. The import, export, re-export, transit and trans-shipment of such goods require authorization, unless they are free in and out.

Likewise, the import, export, re-export, transit and trans-shipment of category I means of delivery under the Missile Technology Control Regime (MTCR) require authorization pursuant to the Decree-Law of 18 April 1939 and the order of 2 October 1992.

Items not specifically covered by the war materiel regime come under the regulations on dual-use goods. These regulations apply to nuclear, biological and chemical products and category II products under the MTCR.

Pursuant to amended Council Regulation (EC) No. 1334/2000 of 22 June 2000, such products and technologies require export authorization, regardless of the third country outside the European Union to which they are permanently or temporarily exported. Such authorization is required in the case of both the physical export of goods and the intangible transmission of data.

The provisions of this regulation apply regardless of quantity or value. The shipment of samples or non-invoiced merchandise, including shipment by a firm which has its headquarters in France to its subsidiary or shipment in connection with an exhibition or a trade fair, falls under the authorization regime.

The re-export of dual-use items which fall in the category of non-European Community goods is likewise subject to authorization. Consequently, non-European Community goods imported into Community territory require authorization when they are re-exported as such or after integration into a system.

Technical support provided in a third country outside the European Union, in connection with the repair, development, manufacture, assemblage, testing or maintenance of dual-use items may require authorization pursuant to the common

action taken at the Council of the European Union meeting of 22 June 2000 regarding technical support related to some final military destinations.

The European regime for the control of dual-use goods has been supplemented in France by an inter-ministerial control arrangement, involving the General Secretariat for National Defence and the Ministries of Economic Affairs, Finance and Industry, Foreign Affairs, Defence and the Interior. This arrangement is based specifically on the following national laws:

- Act No. 80-572 of 25 July 1980 on the protection and control of nuclear material;
- Act No. 98-467 of 17 June 1998 on the implementation of the Convention of 13 January 1993 on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction;
- Act No. 72-467 of 9 June 1972 prohibiting the development, production, possession, stockpiling, acquisition and transfer of biological or toxin-based weapons; supplemented by the order of 22 September 2001 (amended on 15 January and 30 July 2004) concerning the manufacture, import, export, possession, transfer free of charge or in return for payment, acquisition and transport of certain biological agents which cause infectious diseases, pathogenic micro-organisms and toxins.

The enforcement in France of the regulations governing dual-use items and technologies is also the responsibility of the Directorate-General for Customs and Indirect Taxation as part of its duties to monitor compliance with prohibitions. Dual-use items and technologies are goods the export of which is in fact prohibited under article 38 of the Customs Code.

Articles 60 to 65 of the Customs Code empower customs officials to investigate violations.

Articles 414 to 429 of the Code define violations of the regulations and establish penalties for contraband activities and the illegal export or import of nuclear, chemical or biological weapons and their means of delivery.

The French arrangement for the control of exports of dual-use items was evaluated by other States members of the European Union as part of a peer review during the first half of 2004. The evaluation was done in accordance with the guidelines established in the Action Plan adopted at Thessaloniki, and, in particular, the European Union Strategy against the Proliferation of Weapons of Mass Destruction. The Commission should be issuing its follow-up recommendations for all member States by the end of the year.

With regard to action to stop the financing of such activities, France has set up a financial information unit within the Ministry of Economic Affairs, Finance and Industry, with the Office of the Director-General for Customs and Indirect Taxation acting as its secretariat. This unit (TRACFIN) is a centre for the collection of data on clandestine financial networks and a service with expertise in combating money-laundering.

As such, TRACFIN receives and builds upon the information in the declarations of suspicion submitted by financial bodies (banks, public financial institutions, person-to-person currency exchange bureaux, insurance and reinsurance

companies, investment firms and mutual associations) and the information conveyed by many persons working in fields other than finance (accountants, auditors, process servers, court administrators and agents, lawyers, notaries, court auctioneers, real estate agents, casino managers, auctioneers and dealers handling items of great value, clubs and groups organizing games of chance, forecasters and the like). TRACFIN has been given specific powers to enable it to perform its task: broad authority to communicate with all persons engaged in occupations requiring them to submit declarations of suspicion, authority to put a 12-hour stay on the execution of a registered transaction, and authority to exchange information with the criminal investigation officers of the Central Office for the Suppression of Serious Financial Crimes, the customs services and the authorities monitoring activities in some of the occupations requiring the submission of declarations of suspicion.

In the context of bilateral cooperation, TRACFIN is authorized to communicate and exchange information with foreign units exercising similar functions and subject to the same professional secrecy obligations, on conditions of reciprocity. TRACFIN has increased its cooperation with such foreign financial information units, and has to date signed 25 bilateral agreements with some of them.

If a review by its financial experts confirms that an initial suspicion must be regarded as a presumption of money-laundering, TRACFIN then brings the facts to the attention of the public prosecutor who has jurisdiction.

Customs officers, for their part, are responsible for monitoring compliance by individuals who are required to declare, at the time of import or export, any transfers of sums, securities or assets worth €7,600 or more. The detection by customs officers of any failure to comply with that requirement can also lead to the discovery of money-laundering operations.

... 6. Recognizes the utility in implementing this resolution of effective national control lists and calls upon all Member States, when necessary, to pursue at the earliest opportunity the development of such lists;

France is a member of the Nuclear Suppliers Group, the Australia Group and the Missile Technology Control Regime, the Zangger Committee and the Wassenaar Arrangement. It is working actively within these systems to prevent the proliferation of weapons of mass destruction and their means of delivery. In that connection, it has established and regularly updates national control lists of exports.

The lists of items and products subject to declaration and control have been established under the European regulations on dual-use items and France's own Act No. 80-572 of 25 July 1980 on the protection and control of nuclear material, Act No. 98-467 of 17 June 1998 on the implementation of the Convention of 13 January 1993 on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction; and the order of 22 September 2001 (amended on 15 January and 30 July 2004) concerning the manufacture, import, export, possession, transfer free of charge or in return for payment, acquisition and transport of certain biological agents which cause infectious diseases, pathogenic micro-organisms and toxins.

Furthermore, the progressive development of the control lists of suppliers groups (under the Wassenaar Arrangement, the Missile Technology Control Regime, the Nuclear Suppliers Group, the Australia Group and the Chemical Weapons Convention) have been incorporated into Council Regulation (EC) No. 1334/2000,

as supplemented by Council regulation (EC) No. 1504/2004, and are therefore directly applicable under French law.

7. Recognizes that some States may require assistance in implementing the provisions of this resolution within their territories and invites States in a position to do so to offer assistance as appropriate in response to specific requests to the States lacking the legal and regulatory infrastructure, implementation experience and/or resources for fulfilling the above provisions;

France recognizes that some States may need legal, administrative or technical assistance in order to implement this resolution.

As a member of the G-8 Global Partnership against the Spread of Weapons and Materials of Mass Destruction, it has undertaken to fund a number of projects. The activities involved include the dismantling of Russian nuclear submarines through the Multilateral Support Fund of the Northern Dimension Environmental Partnership, as well as action under a number of bilateral programmes in the nuclear, chemical and biological fields.

France is participating in bilateral dialogues and campaigns to raise awareness of what is at stake in combating proliferation, and it cooperates on a case-by-case basis in bilateral activities relating to the various provisions of resolution 1540 (2004), such as export controls and the physical protection of sensitive materials or equipment.

8. Calls upon all States:

(a) To promote the universal adoption and full implementation, and, where necessary, strengthening of multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, biological or chemical weapons;

Within the European Union, France has supported Council Common Position No. 2003/805/CFSP of 17 November 2003 on the universalization and reinforcement of multilateral agreements in the field of the non-proliferation of weapons of mass destruction and means of delivery. France also sponsored the adoption in November 2003 of a non-proliferation clause which was included in agreements concluded between the European Union and partner States.

France also encourages the universalization and appropriate strengthening of non-proliferation treaties, through bilateral actions, whereby it invites States to ratify or adhere to the principal non-proliferation treaties and agreements, and through its actions in multilateral forums.

France is working towards the strengthening of the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, and is fully committed to the monitoring process. Its active involvement in the preparation and organization of meetings in 2003 (consideration of national legislation and the securing of pathogens) and 2004 (international investigation into the alleged use of biological weapons, and surveillance of epidemics) and in the one planned for 2005 (codes of conduct for scientists) reflect France's commitment to the strengthening of the Convention.

France is also actively engaged in the efforts of the International Atomic Energy Agency and partner States to promote safeguards agreements to be concluded under the Treaty on the Non-Proliferation of Nuclear Weapons and its additional protocols. It has made financial contributions, and taken part in several promotion seminars.

(b) To adopt national rules and regulations, where it has not yet been done, to ensure compliance with their commitments under the key multilateral non-proliferation treaties;

France has ratified the principal nuclear, chemical and biological non-proliferation treaties and conventions. These instruments have been reflected in domestic law in the manner described in parts III.2 and III.3 of this report.

(c) To renew and fulfil their commitment to multilateral cooperation, in particular within the framework of the International Atomic Energy Agency, the Organization for the Prohibition of Chemical Weapons and the Biological and Toxin Weapons Convention, as important means of pursuing and achieving their common objectives in the area of non-proliferation and of promoting international cooperation for peaceful purposes;

In addition to its contribution to the regular budget of IAEA and its participation in the corresponding programmes, such as the verification activities of the Department of Safeguards, France is conducting additional activities on a voluntary basis in support of the goals of Security Council resolution 1540 (2004). France seeks to ensure that, IAEA is provided with the human, financial and technical resources commensurate with the mandate entrusted to it by the international community in order for the Agency's verification mission to be credible. It remains mindful, however, of the need for adequate funding of the Agency's other priorities, in particular promotional and technical cooperation activities.

In the context of its safeguards support programme, France contributes both financially and in kind (expert services, transfers of technology or know-how) in order to strengthen the capacities and activities of the Department of Safeguards. French support focuses mainly on developing and strengthening the safeguards system, information and training, and activities targeting the needs of the inspection divisions. It comprises over 20 projects representing a total of about 1.2 million euros in 2004.

France supports IAEA activities in the field of nuclear security and protection from nuclear terrorism. Its contributions to the Nuclear Security Fund total almost €500,000. France has provided an expert to the Agency, free of charge, and is also contributing in kind through cooperation activities, particularly in the fields of the physical protection of nuclear materials, the promotion of international agreements and the security of radioactive materials. The French authorities will shortly conclude arrangements with the Agency to define the cooperation framework for these actions.

France has taken an active role in discussions held since 1999 under the auspices of the Agency, for the strengthening of the Convention on the Physical Protection of Nuclear Material. From December 2001 to March 2003 it presided over the group of legal and technical experts which discussed proposed amendments to the Convention. France has recently entered into diplomatic contacts with a

number of States parties to the Convention, inviting them to request the depositary of the Convention to convene a diplomatic review conference.

France's contribution to the budget of the Organization for the Prohibition of Chemical Weapons for 2004 exceeds €4 million; this represents a 6 per cent share of the total and puts France in fifth place among the contributors. As part of its activities within that Organization, France has established a training centre for the prohibition of chemical weapons, which has provided initial training for international inspectors working for the Organization and continues to promote awareness in French Government departments responsible for the implementation of the Chemical Weapons Convention.

As part of its efforts to combat the proliferation of biological weapons, France is continuing to promote the strengthening of the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction.

(d) To develop appropriate ways to work with and inform industry and the public regarding their obligations under such laws;

Proliferation results from the acquisition by proliferators not only of materials, but also of know-how and technology. The industry and research sectors should therefore receive particular attention from Government departments. Consequently, priority must be given to promoting awareness among industrial and scientific establishments which are likely to be approached by proliferators.

Particular efforts to promote awareness have been and are continuing to be made by the relevant departments, with particular attention to small and medium-sized enterprises, which are more vulnerable owing to economic factors and their lack of knowledge of current regulations. The same initiative has been implemented in respect of the managers of import-export entities.

The French authorities are also conducting a study on the conditions for public access to an open database on terrorism. Selected information on the use of weapons of mass destruction for terrorist purposes may be included in that database.

The Ministry of Economic Affairs, Finance and Industry is also engaging in activities targeting industrial entrepreneurs and the public.

The web site of the Directorate-General for Customs and Indirect Taxation provides comprehensive information on the legislation in force. It reproduces information sheets intended for leaders of industry under the following headings: enterprises and professions; foreign trade transactions; goods which are prohibited or subject to special formalities; and dual-use items.

The web page of the Official Customs Bulletin provides the official texts of regulations concerning dual-use items, as published in the *Journal Officiel* of the French Republic.

The customs services also engage in public information activities through their information centres.

The web site of the Ministry of Economic Affairs, Finance and Industry (Directorate-General of Industry, Information Technology and Posts) provides detailed information concerning the legislation in force on dual-use items, including

the penalties for contravening that legislation, and offers practical information and useful contacts for the heads of enterprises concerned.

These web sites are complemented by a brochure on dual-use, which was widely distributed in October 2004, not only to companies but also to the national, regional, decentralized and external services concerned, which are a vital element in the State's actions regarding small and medium-sized enterprises.

In 2003 and 2004, the Ministry of Economic Affairs, Finance and Industry organized conferences for exporters, with the participation of the National Defence Secretariat, and the Ministries of Foreign Affairs, Defence and the Interior. "Tailor-made" information sessions are also organized regularly by various professional sectors or State enterprises (in sectors such as mechanical engineering and electronics) and Government departments such as the Office of the Director-General of the National Police.

9. Calls upon all States to promote dialogue and cooperation on non-proliferation so as to address the threat posed by proliferation of nuclear, chemical, or biological weapons, and their means of delivery;

France is involved in promoting multilateral discussions on non-proliferation. It is encouraging work under way in various international forums, and seeking to ensure that the resulting initiatives are in the spirit of Security Council resolution 1540 (2004) and the European Union Strategy against the Proliferation of Weapons of Mass Destruction.

France actively supports the chairpersons of various groups of exporters, and seeks to promote cooperation among the chairpersons of the various non-proliferation regimes. In particular, it encourages States which are not members of the main regimes to subscribe to the minimal codes of conduct drawn up by those regimes to control exports of sensitive goods.

At the bilateral level, France includes a non-proliferation element in its strategic dialogue with its partners.

10. Further to counter that threat, calls upon all States, in accordance with their national legal authorities and legislation and consistent with international law, to take cooperative action to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery, and related materials;

France supports initiatives to strengthen international cooperation to prevent trafficking in nuclear, chemical and biological weapons and their means of delivery, and related materials. It is also actively involved in the Proliferation Security Initiative, launched in May 2003. As set out in the Statement of Interdiction Principles, adopted in Paris on 4 September 2003, the participants in this Initiative undertake to cooperate in halting shipments of weapons of mass destruction and their means of delivery, and related materials, flowing to or from States or non-State actors which arouse concern with regard to proliferation.

This Initiative seeks to combat such proliferation flows, consistent with national laws and regulations and international law and international bodies, including the United Nations Security Council. The Statement of Interdiction Principles proposes various kinds of political commitments, including the commitment not to contribute to such shipments, to intercept any such shipments

and to cooperate to that end, particularly where the States concerned are unable to take action themselves. In theory, all countries are concerned, particularly coastal States, trans-shipment States and flag States.

The latest meeting of the Proliferation Security Initiative, held in Kraków on 31 May and 1 June 2004, showed that the Initiative is continuing to develop in a positive direction and is gaining growing support: over 60 countries took part in that meeting and expressed their support for the Statement of Interdiction Principles.

France believes that the success of this Initiative will effectively depend upon its ability to involve a great number of States in its activities, on the basis of flexible commitments, particularly those States which are able to make a significant operational contribution to the Initiative.

In practical terms, France has played an active part in the development of this Initiative in two main areas:

- Contributing to thorough and comprehensive consideration of the conditions of implementation of the Initiative at the legal and operational levels, and to the elaboration of scenarios;
- Regular planning and organization of intervention exercises to improve know-how which is specific to this type of operations, and coordination at the political, strategic and tactical levels.

France has taken part in all military exercises proposed by its partners, and is planning to organize its third exercise for 2006.

At the multilateral level, France continues to promote the fight against illicit trafficking in materials which can contribute to the proliferation of weapons of mass destruction (G-8 initiatives, review of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation).

Notes

[1] Statement by the President of the French Republic at the Ambassadors' Conference, 29 August 2003.

[2] Nuclear material: "Fusible, fissile or fertile nuclear material, as well as any material containing one or more fusible, fissile or fertile elements, ores exempted."

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Security Council Committee established pursuant to resolution 1540 (2004)

Note verbale dated 29 October 2004 from the Permanent Mission of Liechtenstein to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Principality of Liechtenstein to the United Nations presents its compliments to the Chairman of the Committee, and has the honour to transmit the report required in accordance with operative paragraph 4 of the resolution (see annex).

04-61612 (E) 211204

Annex to the note verbale dated 29 October 2004 from the Permanent Mission of Liechtenstein to the United Nations addressed to the Chairman of the Committee

Report of the Principality of Liechtenstein to the Security Council Committee established pursuant to Security Council resolution 1540 (2004)

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1. INTRODUCTION

The increasing threat of terrorism has added greater urgency to questions of proliferation. The possibility of biological, chemical or nuclear attacks can no longer be excluded and has thus become a major international concern. Liechtenstein is of the opinion that the existing regime of multilateral treaties must constitute the basis for work in the area of non-proliferation. Full implementation, universal acceptance and, where necessary, strengthening of the existing instruments, in particular in the field of verification and monitoring are indispensable elements of the long-term efforts to work towards the elimination of weapons of mass destruction.

Non-proliferation, arms control and disarmament are complementary elements of the overall comprehensive efforts the international community must undertake to effectively tackle the threat posed by weapons of mass destruction.

2. PART I: GENERAL CONTRIBUTION OF LIECHTENSTEIN TO THE FIGHT AGAINST THE PROLIFERATION OF NUCLEAR, CHEMICAL AND BIOLOGICAL WEAPONS AS WELL AS THEIR MEANS OF DELIVERY

2.1 International Treaties and Agreements

Liechtenstein is a party to the following treaties and conventions relating to the non-proliferation of nuclear, chemical and biological weapons:

- Treaty on the Non-Proliferation of Nuclear Weapons of 1 July 1968;
- Agreement for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons of 6 September 1978;
- Treaty on the Prohibition of the Emplacement of Nuclear Weapons and other Weapons of Mass Destruction on the Sea-bed and the Ocean Floor and in the Subsoil thereof of 11 February 1971;
- Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction of 10 April 1972;
- Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction of 13 January 1993;
- Comprehensive Test Ban Treaty of 10 September 1996.

Furthermore, Liechtenstein is a subscribing State to the Hague Code of Conduct against Ballistic Missile Proliferation (HCOC).

2.2 General contribution to the fight against terrorism

Terrorism in all its forms and manifestations has consistently been condemned by Liechtenstein, regardless of the reasons that are invoked to justify it. Perpetrators of terrorist acts must be brought to justice, while addressing the root causes of terrorism is an important element in the prevention of terrorism. Liechtenstein is committed to effective inter-national conventions relating to the fight against terrorism. It has ratified all 12 United Nations conventions relating to the fight against terrorism. In order to fully implement the UN Convention for the Suppression of the Financing of Terrorism, a special legislative

package was adopted in 2003, resulting in amendments to the Criminal Code, the Code of Criminal Procedure and due diligence legislation.

Liechtenstein fully supports the work of the Counter-Terrorism Committee (CTC) established pursuant to SC resolution 1373 (2001) and is engaged in an ongoing dialogue with the CTC on the measures taken in the global fight against terrorism. To this end, it submitted several reports (2001, 2002, 2003, 2004) to the CTC, documenting the measures it has taken to combat in particular the financing of terrorism. Liechtenstein also cooperates with the Al-Qaida and Taliban Sanctions Committee established pursuant to SC resolution 1267 (1999).

2.3 National Legislation

On 23 March 1923 Switzerland and the Principality of Liechtenstein concluded a Customs Union Agreement under which the national territories of Switzerland and the Principality of Liechtenstein were brought together to form a common customs area. For this reason a great number of Swiss laws are applicable in Liechtenstein. The application of these laws in Liechtenstein is limited to regulations concerning import, export or transit through the combined Swiss/Liechtenstein customs territory.

A list of Liechtenstein laws as well as Swiss laws applicable in Liechtenstein relevant for the implementation of resolution 1540 can be found in the annex.

3. PART II: IMPLEMENTATION OF SECURITY COUNCIL RESOLUTION 1540 (2004)

3.1 Paragraph 1

Support of non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery

Liechtenstein does not provide any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery. Such support would be contrary to the Liechtenstein legislation, the international obligations Liechtenstein has entered into and to the policy it pursues at the international level.

3.2 Paragraph 2

Appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them

Under article 7 of the Swiss Federal Law on War Material the development, production, indirect transfer, acquisition, import, export, transit and stockpiling of nuclear, biological and chemical weapons is forbidden, as well as aiding and abetting. This article is also applicable to offences committed abroad if they are in violation of rules of international law by which Switzerland is bound and if the offender is of Swiss nationality or domiciled in Switzerland. The same applies with regard to offenders of Liechtenstein nationality or offenders who are domiciled in Liechtenstein. According to article 34 violations of article 7

shall be punished with imprisonment up to 10 years and fines up to 5 million Swiss Francs. It is also punishable to attempt to engage in any of the mentioned activities or to participate in them.

The Convention for the Suppression of the Financing of Terrorism specifies that even attempted financing of terrorism within the meaning of the Convention shall be criminalized and that the punishability of financing of terrorism shall not be made dependent on the actual use of the financial means for perpetrating one of the named criminal acts. Article 278d of the Liechtenstein Criminal Code serves as catch-all clause for this purpose. The provision and collection of assets for the purpose of perpetrating a criminal act listed in the individual subparagraphs is punishable. Assets include in particular legally relevant papers and documents (including electronic and digital) substantiating the right to such assets or rights pertaining to such items. Indirect intent is sufficient for commission of the act as is the intent to use the assets only partially for the illegal purpose.

3.3 Paragraph 3

Sub-paragraph a) and b)

Appropriate effective measures to account for and secure nuclear, chemical or biological weapons, their means of delivery, and related materials in production, use storage or transport and physical protection measures

Liechtenstein does not maintain armed forces and has never developed, produced, acquired, possessed or stockpiled nuclear, chemical or biological weapons and their means of delivery.

Enterprises and institutions working with nuclear, chemical or biological material are subject to the reporting obligations and inspections provided for in the international instruments Liechtenstein is a party to.

Sub-paragraph c)

Appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in such items in accordance with their national legal authorities and legislation and consistent with international law

The Law on Sanctions on Trade with Foreign States allows to limit or inhibit trade with foreign States in order to fulfil international obligations by which Liechtenstein is bound or in order to prevent a disturbance of peace. On the basis of this law that the Government has issued the Ordinance on the Brokerage of War Material. Brokerage as defined in the Ordinance covers establishing the essential conditions for the conclusion of agreements concerning the manufacture, tender, procurement or transfer of weapons, the transfer of intangible goods including know-how, or the granting of rights thereto, insofar as these relate to war material, and the conclusion of such contracts if the service concerned is to be provided by third parties. Article 7 forbids brokerage of nuclear, biological or chemical weapons as well as aiding and abetting the aforementioned actions. This article is also applicable to offences committed abroad if they violate rules of international law by which Liechtenstein is bound and if the offender is of

Liechtenstein nationality or domiciled in Liechtenstein. Sanctions consist of fines up to one million Swiss Francs. The competent supervisory organ is the Liechtenstein Police.

Regarding law enforcement outside the scope the Ordinance on the Brokerage of War Materials, reference is made again to the customs union with Switzerland. The customs and border controls are conducted by Swiss authorities in accordance with Swiss law.

Sub-paragraph d)

Appropriate effective national export and trans-shipment controls over nuclear, chemical or biological weapons, their means of delivery, and related materials, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations

Export:
Export, import and transit of goods are covered by the Customs Treaty and are thus subject to Swiss law. Switzerland maintains strict and efficient export controls on dual-use goods which might be used in weapons of mass destruction programs and/or conventional weapons programs. The legal basis is the Law on the Control of Goods Usable for Civilian and Military Purposes and Specific Military Goods which is complemented by the Ordinance concerning the Export, Import and Transit of Dual-Use Goods and Specific Military Goods and the Ordinance on the Control of Chemicals with Civilian and Military Use. The law and its ordinances require exporters to apply for an export permit for certain sensitive goods which are listed in the annexes of the ordinances. The competent authority, the Swiss State Secretariat for Economic Affairs (seco), denies such a permit if the activity applied for violates international agreements, non-binding international control measures or embargoes. A permit is also denied if there is reason to assume that the activity applied for would support terrorist groups or organized crime. The Ordinance concerning the Export, Import and Transit of Dual-Use Goods and Specific Military Goods further specifies that a permit shall be denied if there is reason to assume that the goods in question:
a) are to be used for the development, production or use of biological or chemical weapons;
b) serve for the development, production or use of nuclear weapons or of unmanned missiles for the delivery of NBC weapons or the proliferation of such weapons;
c) contribute to the conventional armaments of a State which through its behaviour endangers regional or global security.

Furthermore, the Ordinance concerning the Export, Import and Transit of Dual-Use Goods and Specific Military Goods contains a catch-all clause. Any planned exports not subject to a permit requirement must be reported to the seco if the exporter knows or has been informed by the authorities that the goods are or could be intended for a program for weapons of mass destruction or their means of delivery.

Individuals or legal entities who apply for a permit or have received a permit have to provide all information to the authorities and submit documentation necessary for a comprehensive evaluation or control. The requested documentation includes company profiles, confirmation of orders, sales contracts or customer bills, exporter's end-use statements, import certificates of the country of destination and

consignee's end-use statements. Article 21 of the Ordinance provides for mandatory record-keeping for a period of five years.

Controls are carried out by the Swiss State Secretariat for Economic Affairs (seco). It is authorized to enter the business premises of persons required to provide information during regular office hours without prior announcement, to make observations and to access pertinent documents.

Infringements against legislation governing goods usable for civilian and military purposes and specific military goods are punishable by imprisonment or fines up to 1 million Swiss Francs, or in severe cases by imprisonment of up to 10 years and fines up to 5 million Swiss Francs. The authorities may also revoke permits at any time if the relevant conditions are no longer met.

Transit:

Dual-use goods may not be transported through the combined Liechtenstein/Swiss customs territory if the shipment is not proven to be in accordance with the relevant regulations of the country of origin. If there is reason to believe that the transit violates international control measures supported by Switzerland seco prohibits the transit.

Financing:

The Liechtenstein Due Diligence Act is an administrative law that subjects financial institutions to a broad spectrum of obligations. First, it requires financial intermediaries to engage in a complete verification of a business relationship upon its initiation (article 4: Identification of the contracting party; article 5: Determination of the beneficial owner; article 10: Establishment of the client profile etc.) and then to verify every single transaction in the ongoing business relationship. This includes in particular the obligation to check individual transactions with the established client profile. Any suspicious transactions have to be reported to the Financial Intelligence Unit (FIU). Assets related to the report are automatically frozen for up to 10 working days.

3.4 Paragraph 6

Effective national control lists

As mentioned in 3.3 subparagraph d), export controls of strategically sensitive goods are subject to Swiss legislation. Switzerland is a party to all export control regimes, namely the Zangger Committee, the Australia Group, the Missile Technology Control Regime, the Nuclear Suppliers Group and the Wassenaar Arrangement and has implemented the export guidelines as well as the control lists established by these groups. The corresponding regulations and lists are to be found in the Swiss Federal Law on the Control of Goods Usable for Civilian and Military Purposes and Specific Military Goods and its accompanying ordinance, which are also applicable in Liechtenstein.

3.5 Paragraph 7

Assistance to States lacking the legal and regulatory infrastructure, implementation experience and/or resources for fulfilling the above provisions

Liechtenstein is willing to assist other States through capacity building, particularly in areas where it has relevant experience. Liechtenstein is proud to have thoroughly modernized its legislation relating in particular to the suppression of the financing of terrorism and money laundering. Various international monitoring mechanisms have confirmed the success of these legal and administrative measures. In recent years, Liechtenstein has established new authorities tackling these issues, such as a Due Diligence Unit and a Financial Intelligence Unit. On 1 January 2005 the Financial Market Supervisory Authority (FMSA) will begin operations. The FMSA will encompass the supervisory tasks currently assumed by the Government, the Financial Services Authority, the Office of Economic Affairs and the Due Diligence Unit. It will be independent of the Government and the supervised financial market actors. The completion and success of these efforts enable Liechtenstein to contribute to capacity building on other States. In its Fourth Report to the Counter-Terrorism Committee (S/2004/254), Liechtenstein has outlined relevant assistance capacities.

3.6 Paragraph 8

Sub-paragraph a)

Promote the universal adoption and full implementation, and, where necessary, strengthening of multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, biological or chemical weapons

Sub-paragraph b)

Adopt national rules and regulations, where it has not yet been done, to ensure compliance with their commitments under the key multilateral non-proliferation treaties

With respect to the implementation of international treaties, Liechtenstein abides by the principle that treaty obligations should only be entered into if they can be complied with. After entry into force, a ratified treaty becomes directly applicable under national law provided that its provisions are specific enough.

Sub-paragraph c)

Renew and fulfil their commitment to multilateral cooperation, in particular within the framework of the International Atomic Energy Agency, the Organization for the Prohibition of Chemical Weapons and the Biological and Toxin Weapons Convention, as important means of pursuing and achieving their common objectives in the area of non-proliferation and of promoting international cooperation for peaceful purposes

Liechtenstein has been a member of the International Atomic Energy Agency since 1968. In 1978 it concluded a safeguards agreement to the NPT with IAEA. Preparations for the conclusion of an additional protocol to the safeguards agreement are currently underway.

Liechtenstein ratified the Biological Weapons Convention and the Chemical Weapons Convention in 1991 and 1999 respectively. It supports the above mentioned organizations and conventions by paying its assessed contributions fully and on time. Furthermore it submits periodic national reports where requested.

Sub-paragraph d)

Develop appropriate ways to work with and inform industry and the public regarding their obligations under such laws

All relevant laws and international agreements are considered by Parliament and must be published in the Liechtenstein Legal Gazette (Landesgesetzblatt, LGBl.). Their entry into force is announced in the national newspapers. The complete text may either be obtained at the Government Chancellery or viewed on the Internet.

3.7 Paragraph 9

Promote dialogue and cooperation on non-proliferation so as to address the threat posed by proliferation of nuclear, chemical and biological weapons, and their means of delivery

3.8 Paragraph 10

Cooperative action to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery, and related materials

In the framework of strengthened regional cooperation, Liechtenstein has concluded a treaty with its neighbouring countries Switzerland and Austria which entered into force on 1 July 2001 (LGBl. 2002 No. 122). The objective of the treaty is to cooperate regarding mutual security interests, to further develop close cooperation among police and border police, and to counter transboundary threats and international crime effectively by means of a cooperative security system.

4. FURTHER INFORMATION

The full text of relevant legislation can be submitted to the Committee upon request. Liechtenstein legislation can be found at www.gesetze.li (German version only), Swiss legislation at www.admin.ch (German, French and Italian version). For more information on Liechtenstein's contribution to the fight against terrorism, please refer to the reports submitted to the Counter-Terrorism Committee. These reports can be accessed at www.un.org/Docs/sc/committees/1373/submitted_reports.html

5. ANNEX

Laws relevant for the implementation of resolution 1540 (2004) in Liechtenstein:

- **Swiss Federal Law on the Enforcement of International Sanctions of 22 March 2002**
- **Swiss Federal Law on War Material of 13 December 1996**
- **Ordinance on War Material of 25 February 1998**
- **Swiss Federal Law on the Control of Goods Usable for Civilian and Military Purposes and Specific Military Goods of 13 December 1996**
- **Ordinance on the Export, Import and Transit of Goods Usable for Civilian and Military Purposes as well as Specific Military Goods of 25 June 1997**
- **Ordinance on the Control of Chemicals Usable for Civilian and Military Purposes and the Ordinance of the EVD**
- **Agreement between Liechtenstein and Switzerland concerning the Execution of the Convention on Chemical Weapons of 1993 (published in LGBl. 2000 No. 292)**
- **Swiss Federal Law on the Control the Communicable Human Diseases of 18 December 1970**
- **Ordinance on the Notification of Communicable Human Diseases of 13 January 1999**
- **Swiss Federal Law on the Control of Animal Epidemics of 1 July 1966**
- **Ordinance on the Control of Animal Epidemics of 27 June 1995**
- **Swiss Federal Law on the Agriculture of 29 April 1998**
- **Ordinance on Plant Protection of 28 February 2001**
- **Swiss Federal Law on the Peaceful Usage of Nuclear Power of 23 December 1959**
- **Ordinance on the Definitions and the License on the Field of Nuclear Power of 18 January 1984**
- **Swiss Federal Law on Radiation Protection of 22 March 1991**
- **Ordinance on Radiation Protection of 22 June 1994**
- **Law on Sanctions on Trade with Foreign States of 8 May 1991 (published in LGBl. 1991 No. 41)**
- **Ordinance on the Procurement of War Material of 9 September 1999 (published in LGBl. 1999 No. 185)**
- **Criminal Code of 24 June 1987 (published in LGBl. 2003 No. 236)**
- **Due Diligence Act of 22 May 1996 (published in LGBl. 1996 No.16)**